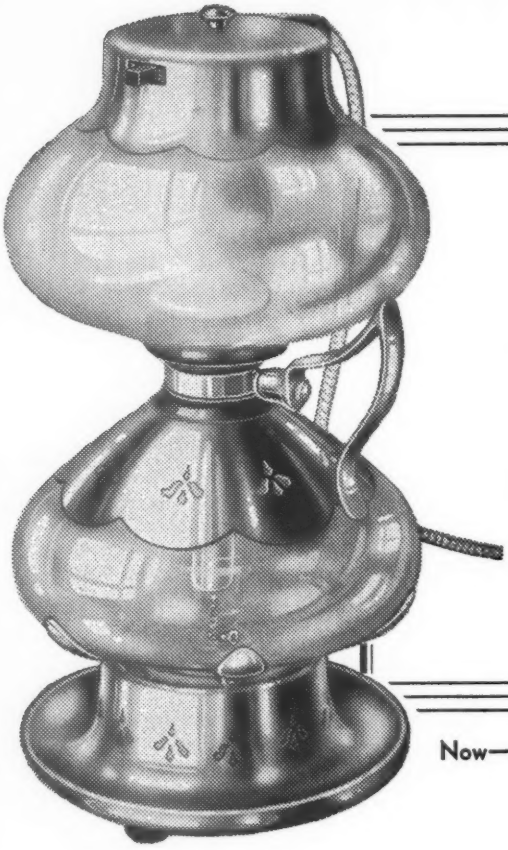
Public Utilities

FORTNIGHTLY

November 5, 1936

PUBLIC UTILITIES REPORTS, INC.
PUBLISHERS



Install a

Genuine SILEX

GLASS COFFEE MAKER

in every home on your lines

Now—a completely automatic glass coffee mak

HERE is a way to make more profits. Your users are being made "Silex-conscious" by the tremendous Silex advertising campaign. All you need do to make more profits from your domestic connected load is to point out these points of Silex superiority. Pyrex brand glass guaranteed against heat breakage. Quick-cooling electric stove. Exclusive filter assembly. Chrome plated brass stove and shells. Cool Moldex handles. Standardized small parts. Sizes and models to please every purse and taste.

Tie-in with the huge Silex national advertising campaign. Install a Silex in every one of your wired homes. Month after month this advertising is appearing in the Saturday Evening Post, The Ladies' Home Journal, McCall's, Woman's Home Companion, Esquire, New Yorker, Better Homes and Gardens, American Home, American Weekly, Good Housekeeping, and Pictorial Review. Each of these ads tell your consumers to "Buy Silex."

These advertisements will be supplemented b newspaper ads in 160 cities. Each newspape ad tells your consumer "Where to go . . . t Buy Silex."

Get behind this drive. You can increase you load . . . by installing a Silex in every hom on your lines.

Whether you merchandise or not, Silex offer a load-building opportunity you cannot affor to miss. Let our nation-wide sales and dis tributing organization help you "Install a Sile in every home on your lines."

The Silex Co. *Dept. 115,* **Hartford, Conn.**

Prices range from $2.95 to $10.95

THERE IS ONLY ONE

Genuine SILEX

GLASS COFFEE MAKER

The product of THE SILEX CO. Hartford, Conn.

CUT

OUR TRUCKING COSTS WITH THIS AMAZING NEW TIRE

Just like a sneak-thief the idewall "Failure Zone" of ruck tires is stealing money rom you. Most truck tires aken out of service prema- urely are damaged right there —in the sidewall!

You can't see a break com- ng because it works from the nside out. You get no warn- ng. Suddenly there is a bang! The tire is flat! The casing uined. Truck and driver lose ime.

—Wouldn't you like to put an end to all that grief?

Well, Goodrich has a new kind of tire—a tire with a new invention in the sidewall. The sidewall is just as strong as the tread! The reason is Triple Protection. The tire is the Triple Protected Silvertown! Now you can get a dollar's worth of mileage for every tire dollar. You can cut down on delays—reduce the chance of accidents—smash those profit-eating repair bills!

Passed Every Test

The Triple Protected Silvertown was put through its paces by Goodrich engineers. It passed every test 100%. Then it went to work for truckers. Results were amazing! Hundreds of operators tell us it is the greatest truck tire ever built.

This 3-way protection is found only in Goodrich Silvertowns.

1. PLYFLEX—distributes stresses throughout the tire—prevents ply separation — checks local weakness.
2. PLY-LOCK — protects the tire from breaks caused by short plies tearing loose above the bead.
3. 100% FULL FLOATING CORD — eliminates cross cords from *all* plies—reduces heat in the tire 12%.

Triple Protection Is Free

Why take a chance on accidents, delays, big repair bills? Isn't it wiser to buy tires that give you positive protection against unnecessary premature failures? Especially when they cost no more than other standard truck tires. Ask a Goodrich dealer about the Triple Protected Silvertown—the tire that slashed trucking costs. Or write direct—address

Department T-125

★★ The B. F. Goodrich Company, Akron, Ohio ★★

Editor—HENRY C. SPURR
Associate Editors—ELLSWORTH NICHOLS, FRANCIS X. WELCH
Contributing Editor—OWEN ELY

Public Utilities Fortnightly

VOLUME XVIII *November 5, 1936* NUMBER 10

Contents of previous issues of PUBLIC UTILITIES FORTNIGHTLY *can be found by consulting the "Industrial Arts Index" in your library.*

Advertising Section

¶ *This magazine is an open forum for the free expression of opinion concerning public utility regulation and allied topics. It is not the mouthpiece of any group or faction; it is not under the editorial supervision of, nor does it bear the endorsement of, any organization or association. The editors do not assume responsibility for the opinions expressed by its contributors.*

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Pages with the Editors

NOT long ago a newspaper reporter friend (whom we shall call Eddie) dropped into our editorial sanctum to furnish us with a glowing description of the recent dedication of a new municipal electric plant in a neighboring state. Eddie had been sent to cover the festivities by a busy editor who probably became tired of seeing Eddie hanging around the city room.

BUT it must have been a grand affair from Eddie's account. There was a parade, of course, with the resplendent national guard units and the local boy scout band. There was the ceremony of pressing down the key by His Honor the Mayor, to start the first dynamo into action. Next came the christening of the plant by a city councilor's pretty daughter, arrayed in the robes of Electra, Queen of the Kilowatts, or some such title. There was some little mix-up at the last minute about the contents of the christening bottle. Some of the church people objected to the traditional champagne. One cynical taxpayer suggested a bottle of red ink. However, the matter was finally compromised by smashing a bottle of water taken from the source of the river that turned the generators. Following a banquet and many speeches there was dancing in the streets—and 10-cent cigars for the adults.

"I COULDN'T help but notice," said Eddie as he rambled on, "the smart way these public ownership folks grabbed the opportunity to dramatize their success. From now on the average citizen of that city is going to associate the city plant with a swell party. What did the private utility company do about it—I mean the company that had to close up and get out?"

"WHAT could they do about it?" we asked with one eye on the clock.

"WELL, if I were running their show, I'll bet I could do something equally dramatic," boasted Eddie.

"FOR instance?" we grumbled, reaching for our editorial chapeau—for it was now lunch time.

"WELL, I'd hold a Festival of Gloom. I'd have a Gloom parade. There would be about eight thousand coal miners marching with banners, telling how much the new hydro plant would diminish their pay envelopes. Then would come a regiment or two of security owners, marching in barrels, right down the main street. For a ceremony I'd have the private utility's head executive press a key that would stop the wheels of the company's local plant and mark the throwing of hundreds of people out of their jobs. I'd have some widows and orphans on hand to throw the first spadesful of dirt at the plant to symbolize its burial as a profitable and taxpaying going concern. Why, say, I could put on a show that would depress everybody in that town for months and months."

"YOU certainly are depressing enough now," we agreed. "Our appetite is completely ruined. How much will you take to forget the whole business?"

EDDIE settled for the price of the lunch and, it might be added, *his* appetite seemed altogether unimpaired.

ALL joking aside, however, it must be conceded that when it comes to publicity, the public ownership advocates have been quick to learn. In truth, according to our contributor, GEORGE E. DOYING (whose article commences on page 638 of this issue), they have even adopted practices which, when used by public utilities some years ago, were widely stigmatized as improper propaganda efforts. MR. DOYING specifically charges various agencies of the New Deal with such zealous (or overzealous, if you prefer) efforts to encourage public ownership and operation of public utilities.

MR. DOYING, who is the managing editor of the P.U.R. Executive Information Serv-

GEORGE E. DOYING

What's the difference between Power Trust Propaganda and Public Ownership Ballyhoo?

(SEE PAGE 638)

ice, is an experienced newspaper man (formerly with the *United States News*) who should recognize propaganda when he sees it. Of course, it might fairly be urged that there is nothing inherently wrong with propaganda, but it does seem that what is sauce for the utility goose should not necessarily be so much applesauce for the government gander.

THE date of this issue of PUBLIC UTILITIES FORTNIGHTLY comes not only after the elections, but a few days prior to the convening of the Forty-Eighth Annual Convention of the National Association of Railroad and Utilities Commissioners at Atlantic City, N. J. (November 10th to 13th, inclusive). One of the most important and controversial subjects of the state commission's deliberations is almost certain to be the matter of Federal-state regulatory relations. Attention will naturally be directed to what the Federal regulatory commissions have been doing. Following this line of inquiry, an appraisal of the special telephone investigation by the Federal Communications Commission should prove interesting.

WE are fortunate in having ROLAND C. DAVIES explain (this issue, beginning page 626) in some detail the accomplishments of this telephone inquiry to date. MR. DAVIES is managing editor of *Telecommunications Reports*—a specialized Washington news service on all forms of communications industries. MR. DAVIES' service covers Federal and state regulatory, legislative, and judicial events, in that field and naturally he has followed the FCC's Bell investigation very closely. In 1929 he left the Associated Press to enter the national advertising field and later became associated with the development department of the Chesapeake and Ohio Railroad Company. In 1934 he started the publication of *Telecommunications Reports*, soon after the creation of the FCC.

KIMON A. DOUKAS

"Public enterprises, under the shadow of providing facilities for the public, throw many elements of cost overboard."

(SEE PAGE 619)

ROLAND C. DAVIES

He summarizes the results of a special FCC job that so far has cost over a million.

(SEE PAGE 626)

IN a more philosophical vein, especially adapted to the post-election season when we shall put away campaign hysteria and get down to solid consideration of proposed governmental policies for the future, we feature in this issue an article by DR. KIMON A. DOUKAS on "The State in the Rôle of Entrepreneur and Manager" (beginning page 619). This author discusses the limits of governmental enterprise in economic activities, as evidenced by trends in Europe compared with those in the United States.

DR. DOUKAS graduated from Columbia University (B.S.) in 1926 and also from New York University (S.J.D.) in 1930. He had previously attended the law schools of the National University at Athens, Greece, and the University of Marseilles in France. Following considerable research work in the general field of administrative government, DR. DOUKAS recently became a member of the faculty of the College of the City of New York.

THAT makes all three featured contributors in this issue having names starting with "D." We really must get on with the alphabet.

THE next issue will be out November 19th.

The Editors

In This Issue

In Feature Articles

In Financial News

In What Others Think

In The March of Events

In The Latest Utility Rulings

PREPRINTS FROM PUBLIC UTILITIES REPORTS

Various regulatory rulings by courts and commissions reported in full text, pages 177–236, from 15 P.U.R.(N.S.)

A NEW SWITCHBOARD FOR CENTRAL STATION SERVICE

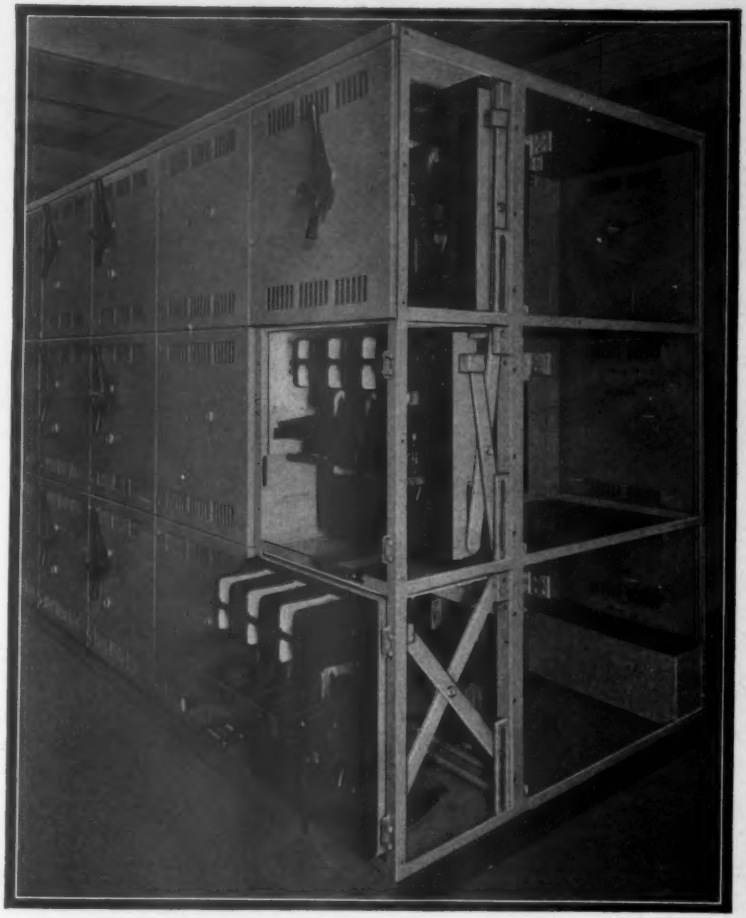
●

End and two hinged doors removed to show pantograph mounting of circuit breakers.

Top—OPERATING POSITION.

Middle—TEST POSITION.

Lower—POSITION WHEN COMPLETELY DISCONNECTED.



SAFE PROGRESS in SWITCHBOARDS

I-T-E

Offices in Principal Cities

Pantograph mounting for circuit breakers is typical of the way I-T-E improves switchboard construction. *Gain in flexibility and other operating advantages is matched by an advance in safety.*

Details of I-T-E withdrawal type construction, as used in many recent central station switchboards, are available in Bulletin 368. The bulletin includes all features of I-T-E steel-enclosed switchboard design.

I·T·E CIRCUIT BREAKER CO., PHILADELPHIA, PA.

Remarkable Remarks

"There never was in the world two opinions alike."
—MONTAIGNE

HARCOURT A. MORGAN
Director, Tennessee Valley Authority.

"A companionship of agriculture and industry should develop to benefit both."

W. L. CLAYTON

"A rich man's income usefully reinvested year after year constitutes not a charge on society but a service to it."

ROBERT TEVIOT LIVINGSTON
Contributor to Columbia University Publication.

"The state knows nothing about operating a business, is not organized to carry on a business, and has been uniformly unsuccessful in operating business."

FLOYD L. CARLISLE
Chairman of the Board, Consolidated Edison Company of New York.

"With fair criticism we have no quarrel. But eternal wrangling will get us nowhere. The world today is more interested in the future than in the past."

ALEXANDER FORWARD
Managing Director, American Gas Association.

"The great diversity among domestic customers is made evident by the very large volumes of gas that are demanded in the hours just before noon on Thanksgiving Day."

CHARLES GORDON
Managing Director, American Transit Association.

"Today the transit industry is reversing its tactics. It is actively competing for the local transportation market, not merely attempting to survive on the business its competitors are leaving."

GEORGE W. NORRIS
United States Senator from Nebraska.

"Development of public power and irrigation projects is a question of humanity, not of politics and is a matter of fighting human greed in the building up of our country and our communities."

DR. JAMES C. BONBRIGHT
Professor, Columbia University.

"A victory for the utilities in the TVA suit would be the worst that could happen to them in the long run because it would spell the death knell of private ownership and operation of public utilities."

RELEASE
U. S. Department of Labor Statistics.

"Electric light and power and manufactured gas companies continued to absorb additional workers, the gain of approximately 6,000 workers bringing the level above that of any month since September, 1931."

DOROTHY THOMPSON
Newspaper columnist.

"If it is the objective that determines the method, then, like England, we shall probably have a close collaboration between public and private enterprise, which will be profitable both to business and all the people."

ECONOMIST OF LONDON
British Financial Publication.

"The (American power) industry has been guilty of many malpractices and many people in it have been stubborn and unwise; but it is also true that the industry has been harried and harassed in many ways that seem unfair."

HUDSON W. REED
United Gas Improvement Company.

"The absence of complete understanding of the (rural electrification) problem has resulted in the formation of many plans which do not relate the practical uses of electricity with the expense such service must necessarily involve."

THOMAS Q. ASHBURN
Major General, United States Army, and President of the Inland Waterways Corporation.

"The waterways bring back manufacturing to the midst of agriculture, and whenever you do that you benefit the railroads, so that my observation is that by building up industry in the interior through the means of waterways you are helping the whole country very much."

EDWARD DANA
President, American Transit Association.

"When in a great metropolitan area, every important act of management must run the gauntlet of approval or disapproval of a multiplicity of local bodies—each with the power of veto—progress and improvements are discouragingly slow, and that is contrary to the public interest."

DONALD RICHBERG
Former NRA Chief.

"If the Supreme Court is mistaken about facts, the appropriate remedy is to convince the court of its errors and organize public opinion in such proportions that the mistaken judgment of one man must yield to the overwhelming judgment of the citizenship in whose service he is employed."

HAROLD L. ICKES
Secretary of the Interior.

"It seems to me to be one of the major problems of our statesmanship to see to it that power generated by private enterprise is made available at the cheapest possible rates consistent with a return of a reasonable profit to the capital that is actually invested in its production and distribution."

DR. G. W. DYER
Professor of Economics, Vanderbilt University.

"While transportation should carry its fair share of the tax burden, it is a stupid, shortsighted policy to put extra tax burdens on transportation. The policy of keeping the profits of transportation at a minimum through unwarranted governmental restrictions and limitations is stupid in the extreme."

FRANK KNOX
Republican Candidate for Vice President.

"Under the Republican party, it will be Congress that makes appropriations for public works. The platform says public works will be undertaken on their merits, and that means when economic conditions justify them. By saving on wasteful projects, it is going to be possible to spend fairly on desirable projects."

New CE Unit for-

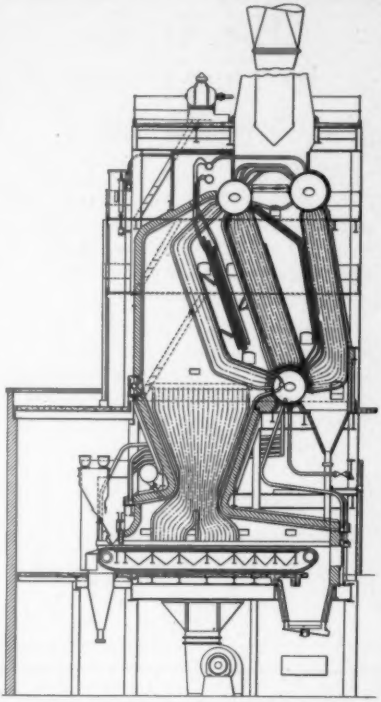
Provo Steam Electric Station

UTAH POWER & LIGHT COMPANY

•

The new Provo Station, placed in operation in August 1936, by Utah Power & Light Company, is of semi-outdoor construction and is located at an elevation of nearly 5000 feet above sea level. It is laid out on the unit plan—one boiler and one turbine. The CE boiler is the three-drum bent-tube type with an Elesco Superheater. It is set over a CE Water Cooled Furnace and is fired by a CE Chain Grate Stoker.

Only the lower part of the boiler is enclosed, and the turbine room has unusually low headroom. This arrangement permitted an appreciable reduction in building costs. The turbine-generator has a capacity of 18,750 kw.



Capacity—200,000 lb per hr.
Design Pressure—450 lb.
Total Steam Temperature—760F.

CE PRODUCTS

All types of

BOILERS • STOKERS
FURNACES
PULVERIZED FUEL SYSTEMS
HEAT RECOVERY EQUIPMENT

Fabricators of pressure vessels, tanks, etc., welded or riveted, in carbon, alloy or clad steels.

COMBUSTION ENGINEERING COMPANY, INC.

200 MADISON AVENUE · NEW YORK

Canadian Associates: Combustion Engineering Corp. Ltd., Montreal A-309

Cutting A Bad Debt Loss To 8/100ths of one percent!

Its the achievement of the Kansas City Power and Light Company—an achievement of interest to every Utility!

Undoubtedly one of the important factors in this fine showing is their Remington Rand Customer History Record, which enables the compilation of facts from several sources on one visible, easily accessible card.

Dictograph-Telematic also deserves recognition for this achievement in the efficient transmission of needed information—such as automatic credit approval or rejection, verification of address and meter record—between the Customer History Records and the Service Desks. With this selective, instant system of voice communication, elapsed time from hurried request to correct response averages less than *thirty seconds!*

When a customer calls on the telephone, the handling of requests for account or service information is supplemented by Dictograph-Telematic which assures quick correct responses while still holding outside phone connection.

Increased efficiency and customer goodwill for its many users has won wide acclaim for Dictograph-Telematic's Public Utilities Customer Control System. Numbering among the thousands of its users are New York Edison Company, Public Service of New Jersey, Columbus Street Railway Power and Light, People's Natural Gas Company of Pittsburgh, Detroit Edison Company and many others. Why not discover the many advantages this system offers your organization? Simply write Dictograph—580 Fifth Avenue, New York City, for full information—No obligation, of course!

DICTOGRAPH-TELEMATIC

Ewing Galloway

CITIES SERVICE LUBRICANTS

meet every industrial specification!

FROM the most powerful turbine to the most delicate precision machine, Cities Service stands ready to supply the exact lubricant needed.

Backed by 73 years of petroleum experience, Cities Service engineers can recommend authoritatively the proper lubricants to be used. Wherever moving surfaces come together, at all speeds, and at all loads—whether heavy greases are required for massive gears and bearing surfaces that must carry tremendous loads or the lightest and purest lubricating oils are demanded for delicate precision machines—there is a Cities Service lubricant to meet every requirement.

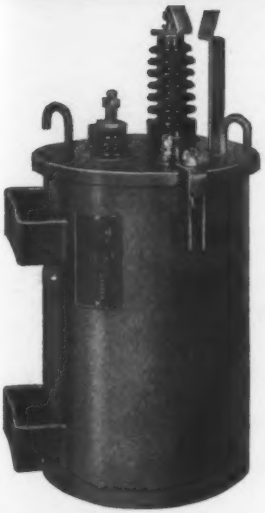
CITIES SERVICE

A Cities Service engineer will be glad to discuss your lubrication needs with you.

CITIES SERVICE INDUSTRIAL OILS

Cities Service Radio Concerts—Fridays at 8:00 p.m. E.S.T., over WEAF and 38 NBC stations.

Check These Four Points of Superiority of Wagner RURAL LINE DISTRIBUTION TRANSFORMERS



Service lines can be easily connected, since core and coils are fastened to cover and cover may be rotated to any desired position with respect to the pole.

No solder is required for connecting transformers to line—solderless connectors are used for all bushing terminals and grounding lugs.

Transformer is self-protecting against lightning as it is equipped with a co-ordinating gap that is set to flashover at a value well below the surge strength of the transformer windings.

Transformer is shipped filled with oil ready for service. This is made possible by the use of stud-type-bushings which eliminate all syphoning of oil.

Wagner type HEB-F rural line distribution transformers meet the need for a small inexpensive unit designed for application to lines of 13200 Y volts and below.

Transformers for this class of service are manufactured in the 1- and 3-kva sizes for operation on single-phase, 60-cycle lines where the high-voltage and low-voltage neutrals are interconnected and solidly grounded. All are oil-filled, self-cooled, 55° C. temperature rise. They are obtainable for voltage classes of 2400, 4800, 6900 and 7620 volts with solidly grounded neutral for operation on 4160, 8320, 11950 and 13200 volt lines.

Wagner type HEB-F rural line distribution transformers have not only all these features, but many more. For further information regarding these transformers, write the nearest Wagner branch office. Descriptive literature will be sent upon request.

Wagner Electric Corporation

6400 Plymouth Avenue, Saint Louis, U. S. A.

TD236-4BA

Transformers *Motors* *Fans* *Brakes*

THE MERCOID SWITCH ELIMINATES ALL CONTACT TROUBLE

AN OBJECT OF BEAUTY AND MECHANICAL PERFECTION

CONTROLS ARE THE MOST IMPORTANT UNITS IN ANY TYPE OF AUTOMATIC HEATING OR AIR CONDITIONING EQUIPMENT

If the controls cease to function or fail to operate correctly, the whole equipment follows suit. • It is obvious that the better the controls, the better the performance of the equipment. • The Mercoid Corporation has steadfastly adhered to the policy of making only the highest grade of controls. The quality was never sacrificed for price. THE MERCOID SENSATHERM illustrated above, is outstanding for its sensitivity and reliable performance. There are many thousands of these thermostats in service over a long period of time, and all are giving complete satisfaction. • Further details of the Sensatherm as well as on all other Mercoid Controls, contained in Catalog No. 100-PA. Write for a copy.

THE MERCOID CORPORATION • 4201 BELMONT AVENUE • CHICAGO, ILLINOIS
MANUFACTURERS OF AUTOMATIC CONTROLS FOR HEATING, AIR CONDITIONING AND VARIOUS INDUSTRIAL APPLICATIONS

GENTLEMEN: PLEASE SEND YOUR CATALOG No. 100-PA TO:

NAME_____

All Pipe Is Easy to Cut Wit
This RIDGID Cutter . .

The trick of RIDGID *Cutter performance is in this blade wheel—which fits any* RIDGID *type cutter.*

Right through iron, steel, copper and brass pipe, without a whimper, the RIDGID Cutter blade rolls in quick, clean cuts. You see the difference at once. You appreciate it more when you experience the much longer life of these blades.

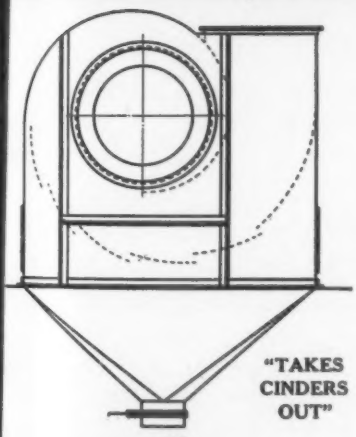
The reason lies in their alloy tool steel, coined out of special sheets, hammered and heat-treated, and then assembled in a solid hub. These blades have stamina—they hold their edge, they cut clean. Try the RIDGID Cutter—for new satisfaction and economy. See your Jobber or write for the whole story of these remarkable tools.

Housing is steel reinforced—won't distort or break.

This guarantee is your assurance of getting rid of the trouble and expense of pipe wrench housing repairs.

THE RIDGE TOOL CO.
ELYRIA, OHIO

RIDGID
Reg. U. S. Pat. Off.
PIPE TOOLS



"TAKES CINDERS OUT"

Satisfactory Cinder Removal

Buffalo Cinder Eliminating Induced Draft Fans are dual-purpose fans. They serve as high-efficiency induced draft fans, and also clean the stack gases of cinders and dust. They are neither new nor experimental—but on the contrary are operating successfully in public utility power stations and industrial plants.

Because Buffalo Forced and Induced Draft Fans meet every requirement of the largest steam plants—they merit your consideration. Write for Bulletins 2872 and 2873.

BUFFALO FORGE COMPANY
444 Broadway Buffalo, N. Y.

"Buffalo"

Cinder Eliminating Induced Draft Fans

Specify— TITAN CONTROLS *with* COMPLETE CONFIDENCE

You may specify Titan controls with the assurance that they will heighten your consumer good will. The simplicity of Titan design and the accuracy of Titan construction make for remarkable sensitivity, for positive operation and for negligible maintenance. The fact that Titan controls are standard equipment on the vast majority of A. G. A.-approved storage heaters speaks for their wide acceptance. Throughout Canada, in the Canal Zone, in every state in the Union, under every conceivable set of conditions and with every type of gas, Titans have compiled an enviable record of uniformly reliable performance. May we send you an impressive list of manufacturers who have standardized on Titan controls?

The Titan Valve & Manufacturing Co.

3205 Perkins Avenue **Cleveland, Ohio**

TITAN

WATER HEATER CONTROLS

YOU SECURE MAXIMUM EYE PROTECTION

WITH SUPER-DREDNAUT DEEP CURVE LENSES

Super-Drednaut toric form or DEEP CURVE lenses are much stronger than any other form of lens made. They withstand much harder blows and impacts from steel chips and other dangerous flying particles, without breaking, than any other form of lens. And, the deep curve tends to prevent the broken glass from being driven into the eye, should the lens be broken under a most severe blow. The ADDED STRENGTH is in the DEEP CURVE.

Why not fortify your men against possible serious eye injuries by supplying them with Super-Drednaut Goggles fitted with DEEP CURVE lenses—the goggle that provides modern and MAXIMUM eye protection.

Super-Drednaut 50-S Goggles

Your men deserve the best eye protection that money can buy, and you can buy Super-Drednauts for but a few cents more than the ordinary kind.

Super-Drednaut Goggles are further equipped with our Non-Rubber Headband—the only one of its kind on the market that eliminates completely all the unpleasant annoyances so prevalent in the old style elastic headbands.

Send for a Super-Drednaut today and inspect these superior features.

THE SAFETY EQUIPMENT SERVICE COMPANY

Buell W. Nutt, President :-: :-: **1230 St. Clair Avenue, Cleveland, Ohio**

Manufacturers of a Complete Line of Accident-Prevention Equipment

A New Low-Cost Foam Tool!

Combines Water, Solution and Air To Form Fire-Smothering Foam

Public utilities are welcoming this revolutionary larger-capacity foam equipment for flammable liquid fires.

The specially designed PHOMAIRE Play Pipe connects to your hose line (¾" to 2½"). When the water is turned on, PHOMAIDE, a new foam-making solution carried in a Hip Pack, and air are automatically drawn into the water stream in the proper proportions to form foam.

There are no complicated preliminaries, no confusing adjustments, no moving parts. And only one man is required at the Play Pipe.

Less than 20 gallons of water at a pressure of 75 pounds or more are required per minute. This is the only efficient foam unit available for small lines. One gallon of Phomaide Solution makes 350 gallons of foam. 300 to 400 gallons per minute may be continuously produced by merely pouring additional solution into the Hip Pack.

This is NEWS. Without obligation, ask for descriptive literature, prices and a demonstration of the Phomaire Unit illustrated at the left. Don't wait! Mail your request now.

Get the Latest Foam Equipment

Phomaire PLAY PIPE and Phomaide SOLUTION

developed, made and sold by

Pyrene Manufacturing Company
NEWARK NEW JERSEY
ATLANTA KANSAS CITY CHICAGO SAN FRANCISCO

Utilities Almanack

NOVEMBER

5	Th	*American Society of Mechanical Engineers will hold session, New York, N. Y., November 30–December 5, 1936.*
6	F	*American Water Works Association, Minnesota Section, starts annual convention, Minneapolis, Minn., 1936.*
7	Sa	*National Exposition of Power and Mechanical Engineering will be held, New York, N. Y., November 30–December 5, 1936.*
8	S	*American Association of State Highway Officials will convene, San Francisco, Cal., December 7–10, 1936.*
9	M	*American Petroleum Institute opens annual meeting, Chicago, Ill., 1936.*
10	Tu	*National Association of Railroad and Utilities Commissioners begins annual meeting, Atlantic City, N. J., 1936.*
11	W	*National Standard Parts Association will hold session, Chicago, Ill., December 7, 8, 1936.*
12	Th	*Society of Automotive Engineers holds annual dinner, New York, N. Y., 1936.*
13	F	*National Association Practical Refrigerating Engineers concludes annual meeting, Chicago, Ill., 1936.*
14	Sa	*National Industrial Council, National Association of Manufacturers, will hold meeting, New York, N. Y., December 7, 8, 1936.*
15	S	*American Institute of Electrical Engineers will hold annual meeting, New York, N. Y., December 25–29, 1936.*
16	M	*National Municipal League starts annual conference on government, Toledo, Ohio, 1936.*
17	Tu	*American Society of Heating & Ventilating Engineers will hold convention, St. Louis, Mo., January 25–27, 1936.*
18	W	*Highway Research Board of National Research Council opens annual meeting, Washington, D. C., 1936.*

Dorr News Service, New York *By Max Kalish, sculptor*

The Telephone Lineman

Public Utilities
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The State in the Rôle of Entrepreneur and Manager

How far should governments go in their economic activities? Tendencies at home and abroad.

BY KIMON A. DOUKAS

THE fundamental purpose of government is in the main to protect the health, safety, and general welfare of the public. But when speaking of such activities the distinction should be made between "services" and "administration." Local governments as a rule perform services, while state or Federal governments move mainly in the orbit of pure administration.

In recent years, however, and especially since the World War, the state has invaded the field of services, and the "economic activities" of the central government are in the ascendancy. In truth, it may be safely predicted that in that zone of twilight the two governments will either wage their battle of competition, or will reach a compromise, the state government reserving a considerable measure of supervision and control, and the municipalities performing their entrepreneurial task.

In England, for instance, that renowned "mother of local government," people think seriously of the functions of their local government in relation to the central authority in London, and expect a greater degree of autonomy concerning services as compared with purely administrative control and supervision. The tendency with most of the other European countries seems to be in the opposite

direction. Our own New Deal for the last three years is heading toward new paths of state paternalism undreamed of before.

In what respects and to what extent such "economic activities" of the government, state or municipal, range far afield, and how far does it seem desirable to treat them in ways different than ordinary governmental organization and practice? What are the methods open to an authority for financing its undertakings?

WHAT was argued at the beginning of the eighteenth century, namely, that gas and water are matters of public necessity and rather than monopolized and managed by private companies for gain they would have to be ultimately provided by the public for the public, has in many instances become a fact. This is especially true in continental countries where, in addition, governments have invaded the fields of electricity and street railway transportation, let alone many other activities, to an appreciable extent.

Thus, in Germany municipal and mixed undertakings form the bulk of water, gas, and electric works, while most of street railways are owned and operated by cities. Communal groups have contributed a considerable part of the capital in air traffic, have invaded the field of savings banks, of slaughter houses and public markets, and they operate a number of bathing resorts. Cities own forest lands, maintain public hospitals, operate public cemeteries and undertaking establishments, and have expanded appreciably in what may be called cultural opportunities under public auspices. Taking into consideration her financial handicaps, Germany presents an astounding record in public economic activities.

Sweden offers an interesting picture in what is called "the middle way" between economic individualism and collectivism, in a design to expand production and lower costs and prices. The state enforces competition in the field of electric power by entering directly into the business of producing power. It does not produce for profit, yet its annual *surplus* from running railroads, telephone, and telegraph systems, and from its lumber operations is considerable. Its control of liquor business is not only noble in motive, but also works through a pass book, which keeps the drunkards sober. Cities by owning land and having prefabricated "magic" houses available for as low as $80 down payment are able to promote low-cost municipal housing of a sort that our New Deal has not dared to attempt.

STATE economy in Sweden is on a "production for use" basis, neither trifled with by fascist demagogy, nor browbeaten by rugged individualists. A strong labor movement prevents the exploitation of the worker not only by producers, but also by the state, as government employees may strike for higher wages on the theory that the strike ever remains the legitimate resort for all workers in collective bargaining. And while the conservatives renounce fascist dictatorships, the social-democrats renounce communist one-man governments.

Here a short reference may be interposed as to prewar Russia. Theirs was a strong coöperative movement.

An outstanding coöperative production in agriculture were the Siberian creameries. The state owned most of the forests, two thirds of the railroads, many mines, and had a monopoly in liquor retail distribution. But all these did not avail the country very much. Perhaps it was the disposition of the people, or different conditions of life. Coöperatives have done well in England, and tobacco monopolies have left political freedom in France intact.

Rumania since 1930 seems headed in the direction of private utility ownership. A complete commercialization program has taken place. Taking a leaf from French experience, the Rumanians have commercialized their public utilities in an effort to save them from bankruptcy, though retaining enough state supervision and control in an attempt to safeguard against the other extreme—of exploiting the public. Railways, posts, telegraphs and telephones, electrical and gas undertakings, waterworks, and even printing, are now privately owned and operated. There is one important exception. The fact that they are operating for the benefit of the consumer rather than the producer makes them exempt from taxation.

With respect to United States, it is submitted that the Roosevelt administration is going in an opposite direction. The New Deal is pursuing an experiment in what has been aptly described as the "socialization of losses," pushing capitalism just so much further along the road to monopoly, with all its evils and shortcomings.

In housing the New Deal is fostering the "colony" idea, with work relief going into the building of the houses. The purpose, it is stated, is to eliminate undesirable local conditions and substitute suitable facilities for people in low-income brackets. It remains, however, to be seen if such projects can become self-sustaining when not taxable locally, as being Federal properties. Local governments refuse to furnish services, like police and fire protection, when the right of taxation is lacking. And without such services people are not attracted to a new domicile.

Due to constitutional limitations and other circumstances peculiar to United States, the idea of municipal and state activities in the field of public utilities has been considered from three angles. Thus, the question has been asked: (a) should a municipal plant be used as a yardstick; (b) or should it be developed as a relief in taxation; (c) or should it be looked upon as a contributing factor in municipal expenditures?

It is admitted that the element of profit, when present, should be insignificant and just enough to attract capital, as only a fair return on the total investment should be allowed.

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¶ "The *New Deal is pursuing an experiment in what has been aptly described as the "socialization of losses," pushing capitalism just so much further along the road to monopoly, with all its evils and shortcomings."*

Profit becomes important when the yardstick idea is paramount. It should be added that the legal monopoly for a state, when an entrepreneur, has been also advocated (by Professor Seligman).

In this connection, the following should be borne in mind; namely, (a) that the rate of interest paid on government borrowings is smaller than that paid by private concerns; (b) that returns to shareholders of the latter must of necessity be high to attract investment; and (c) that more articulate results are achieved on a larger scale of operations by a public than by a private undertaking. Such conditions cease to be important, however, when the public enterprise is able to provide better service at lower rates.

The further question now arises as to how far a government should go in its economic activities. In regards, for instance, to what Walter Lippmann calls the "compensatory government," Europe presents the most advanced example. In many continental countries consolidations of systems or institutionalized services effecting economies in the main were counterbalanced, as far as dismissed employees were concerned, with what the recent railway agreement in this country refers to as "separation allowance" in a lump sum of "dismissal wage" for a specified period, both of course based on length of service.

But again United States presents a different picture. However, ignoring for the moment the Constitution, the question may be asked if it is advisable for the government to dictate. Considering the experience of the last three years, the answer is in the negative, unless a different sort of government is to prevail in Washington. It is submitted that when a government attempts to dictate "from above" to employers, laborers, and consumers, it will reap very little success. Such dictation may be authoritarian, but it will lack authority, as the NRA plainly demonstrated. It may be argued that long since European countries have operated NRA duplicates with economic "controls" and other "checks and balances." The difference between such controls and the NRA lies in the fact that in the operation of the latter capitalist, labor and consumer backseat drivers wanted to take different roads all at the same time.

In other words, the dictation from above will fail as long as compromises are attempted in a conciliatory method without any serious fighting. In Sweden, for instance, consumer coöperatives not only sell goods at retail, but enter the field of manufacturing and distributing, whenever monopoly "cartels" make it necessary. Labor unions are directly in politics on their own hook, fighting their battles through their Social Democratic party.

The same is true in England, where labor has fought for its advances in Parliament. But what did NRA do? It "sinned," as Governor Smith expressed it, by trying to do for people what people must do for themselves. Consumers must fight through coöperatives; laborers through industrial unionism; and employers through trade associations. No matter what the machinery, no matter what the end, there will be fights, as democracy

Public Enterprise Bookkeeping

"PUBLIC enterprises, under the shadow of providing facilities for the public, throw many elements of cost overboard. Thus, capital expenditures and current expenses are not made distinguishable, and a pay-as-you-go policy is pursued, with the legislature appropriating yearly for each deficit."

offers no short cuts to peace, nor values to please everybody.

ANOTHER difference between European and American methods should be noted here. In Europe boards of directors, managing autonomous state enterprises with the right to fix rates, the so-called "tariffs," include government representatives, consumers, producers, labor interests, and experts—technicians. An administrative court may review.

In United States such boards are unknown. Instead, public service commissions are directed to apply the same rules, concerning both public and private plants. The consensus of legal opinion is that municipalities act in a proprietary capacity rather than sovereign,[1] and surplus goes to the general fund of the city as a relief to taxation.[2] All courts have the right to review, but not on legality, as in Europe; they affirm or reverse on constitutional grounds.

[1] Boonville *v.* Maltbie (1935) 245 App. Div. 468, 14 P.U.R.(N.S.) 93.

[2] Logansport *v.* Public Service Commission, 202 Ind. 523, P.U.R.1931E, 179.

Finally, the method of financing public enterprises should be considered. Briefly stated, the following three methods have been used in United States:

(1) Through *taxation.* This is advisable when the expenditure is small, the element of practicability is present, and the service is to be of short duration (cf. pavement construction *vs.* street cleaning).

(2) Through *bond issues.* This may be carried out (a) on the credit of the unit, (b) as a lien on earnings, or (c) through a larger unit than the undertaking itself. Here the distinction should be made between general municipal revenue bonds, and bonds issued by municipal bodies. There is little difficulty in marketing both, except in the case of new enterprises. The marketability of their bonds then depends on how good such enterprises are. Good earning power and production are features which are emphasized as selling points, while future growth of the locality is also an important factor.

As private enterprises have developed and public utility undertakings have come under public control, it has become necessary to sell bonds as against their capitalization rather than stocks, which have come to be considered an equity instead of representing capital assets. This is especially true in the case of new enterprises.

The Port of New York Authority, for instance, issues its own bonds, and keeps a 10 per cent reserve on its own outstanding debt. In the case of Holland tunnel, it has assured it for capital and future revenue. All in all, the Authority's credit is first rate in the market. This may easily be explained by the fact that it has kept politics out and has attracted a fairly good quality of people. It is considered a paying proposition.

There is one further point to be made. Public enterprises ought not to be assisted by the government when in straits. Their investors should take the risk and bear the results just as investors of private enterprises do. A recent bill passed by New York purports to restrict the borrowing power of municipalities so that municipal debt will not increase as rapidly in the future as it has in the past. Similar laws have been passed in other states and have proven very beneficial.

(3) Out of *earnings,* as in the private field, though here the question arises as to what generation must pay for what is being expended.

In this connection there is an additional problem to be considered. Public enterprises, under the shadow of providing facilities for the public, throw many elements of cost overboard. Thus, capital expenditures and current expenses are not made distinguishable, and a pay-as-you-go policy is pursued, with the legislature appropriating yearly for each deficit (the postal budget is in point). This situation demands a supervisory body which would coördinate all government activities, without visibly trespassing on their much-desired autonomy. At the same time, it will be effecting not only economies, but also self-sufficiency for the harassed enterprise. Such supervision should distinguish between recurrent expenditures for facilities and moneys spent in building or enlarging such facilities.

However, it should be noted that no solution has been found as to how the government is going to capitalize itself so that the cost of operations may be elicited. This point is borne out by the proceedings and reports of the Shannon Committee in regards to the cost accounting bill, which still remains pending as a very perplexing enigma to baffle the minds of the experts and all those especially who advocate more government operations.

It is axiomatic that pricing is taking place on an automatic basis. Consumers make the choice without reference to price factors, either by custom and habit, or through advertisement. If so, then a public enterprise should try to influence consumption through price for two reasons; namely, first, in order to eliminate proverty, and second, because of the perversity of human nature. It is known that private enterprises are exalted individually. Yet, government on behalf of consumers wages a constant warfare

against them through public regulation and public enterprise.

As a corollary to the above, it may be asked what the possibilities of determining price are. Briefly, there are three ways; namely,

(1) Through the *legislative* body, (a) by a specific statute setting up rates sufficient to cover costs of operation making the enterprise self-liquidating (postal rates); or (b) by a committee which decides on the price (tobacco régie in Austria).

(2) Through the *executive* branch of government, by (a) the President (Panama canal), (b) the Cabinet (Swedish rates), (c) the Minister (Secretary of War in inland transportation), or (d) the Board (British "grid").

(3) Through the *undertaking* itself, with power of review reserved in a semipublic body such as the public service commission. In this case, state legislation could prove a real friend to public enterprises in developing their earnings, in building up their retirement funds, in setting up reserve funds, and eventually in lowering their rates. In fact, the trend is for more state commission regulations on the theory that outside supervision can be made a truly beneficial "stabillizing force" (such, for example, as the successful Massachusetts commission).

In conclusion, it may be stated as a recognized fact that both economic planning by the government, and the automatic control exercised over production by the play of prices, in a free competitive market, are either bad or have proven unsatisfactory. The former would have to be preceded by a complete centralization of our government in Washington and state capitals, and the result would ultimately be dictatorship. On the other hand, the latter is considered an obstacle in the direction of increased social control and increased collectivism of effort. Perhaps a middle way may be found to correct the evils and bring about the desired metamorphosis.

Power Plant Built from Old Car Parts

A combination of old automobile parts, a few timbers, a home-made, undershot water wheel, and a small used DC generator in conjunction with a flume and dam of timbers and stone has been set up to provide electricity at a small vacation resort on the Cahaba river, near Birmingham, Ala. The resort is five miles from a power line and the owner wanted to "harness" the near-by rapids at minimum cost, writes William Benjamin West in *"The Scientific American."*

The site selected embraces about 100 feet of river bed in which there is a fall of about three feet, the bottom being ledge rock with strata protruding at irregular intervals and slanting upstream at an angle of about 30 degrees, and running all the way across the channel.

During part of the year a sufficient volume of water flows in the stream to operate an undershot wheel even if no diversion works had been provided. However, in order that most of the water might be concentrated at the wheel during low river flow, a low diversion dam was constructed across the river at the head of the rapids and a flume line run along the shore to the wheel pit. This dam is of rock-rib construction, the cribs being built of oak slabs with field fence or "hog wire" securely fastened over the bottom of each pen before it was carried to its location and filled with rock. The spaces between these pens are closed with removable horizontal boards. The canal is also of timber construction and is securely anchored.

The $1,150,000 Phone Probe Up to Date

THE investigation of the American Telephone and Telegraph Company and Bell System by the Federal Communications Commission, heralded as a "lion," has, in the opinion of the author, turned out to be rather lamblike in results.

By ROLAND C. DAVIES

THE $1,150,000 investigation by the Federal Communications Commission of American Telephone and Telegraph Company and Bell System is being reopened on a concentrated front—long-distance toll rates—rather than the widespread barrage on the varied activities of the telephone industry which characterized the first three months of hearings last spring.

The objective of the new program of the investigation will be to win a reduction in long-distance rates, which Chairman Paul A. Walker of the commission's telephone division in charge of the inquiry has frequently branded as much too high. By shifting from its many-sided investigation of last spring which included such widely diverse subjects as the furnishing of wires to a horse-racing news service, legislative activities, the Bell System pension plan, and the American Telephone and Telegraph Company's license contract arrangements with its associated companies, the FCC inquiry now will be pointed largely towards its own regulatory province, interstate communications rates and services. The commission was directed to go into the multiplicity of subjects under the congressional investigation resolution.

The telephone investigation when it was first started by the FCC was heralded to be a "lion" in the form of a searching probe of the world's largest single business enterprise, the A. T. & T. and Bell System, but it has turned out to be rather lamblike in results, at least up to the present time. Almost from the start of the hearings last March, the investigation has traveled over a rather rocky road.

With the new goal of investigating the long-distance toll rates, the commission is hoping to strike a popular

appeal because of the prospect of rate reductions. The previous course of the inquiry during the three months of hearings from last March to June had, to a large extent, gained a bad public reaction. The investigation was known to have been floundering badly even during the stage of initial hearings and the members of the Communications Commission themselves were dissatisfied with its progress. It was felt that, unless the inquiry with its large appropriation of $1,150,000 was productive of tangible results to furnish telephone regulatory ammunition for the future use of the Federal and state utilities commissions, the FCC itself would face a stern investigation by Congress.

THE dissatisfaction and friction over the investigation's previous course within the commission finally came to a head late in the summer and resulted in a "new deal" for the inquiry. First a rearrangement among the directing supervisors of the investigation's special staff took place and then a new associate counsel, Carl I. Wheat, who had had ten years of legal experience in utility regulation commission work and who had won a $1,250,000 telephone rate reduction in California, was appointed to take over the reins of the latest move, the long-distance rate inquiry. A Republican member of the commission, Telephone Division Vice Chairman Thad H. Brown, late in the summer proposed the selection of Mr. Wheat and the change in the investigation tactics to concentrate on long-distance rates.

As a rather curious turn in a governmental probe of a public utility, an unfavorable popular reaction to the investigation was created because of the ex parte manner in which the hearings were conducted last spring. The FCC did not follow the usual method used by the Federal Trade Commission and Interstate Commerce Commission of permitting cross-examination and testimony by company representatives. Instead, Samuel Becker, 33-year-old Wisconsin lawyer and former legal aide of Governor Philip La Follette, who until recently was in sole charge of the legal side of the inquiry, used a procedure adopted by special congressional investigating committees. Under this method cross-examination of FCC witnesses by A. T. & T. counsel was prevented and, in nearly all cases, the introduction of rebuttal evidence by the telephone company was refused. Another alleged ex parte phase of the hearings' procedure was the demand that leading A. T. & T. officials, including President Walter S. Gifford, when on the witness stand, answer categorically many important and pointed questions without any explanations of the company's position.

A FURTHER major criticism of the investigation, which has concerned the members of the Communications Commission and even had attracted the attention of President Roosevelt, has been that the disclosures by the investigation staff in the hearings dealt with activities and operations of the A. T. & T. and Bell System which to a large extent had little primary bearing upon telephone regulation and rates. Alleged sensational revelations by the FCC investigators on such subjects as the wide distribution of Bell System funds

among the nation's banks, of the charged interlocking relationships between Bell System directors and officials with other industries and professions and even with leading universities and colleges, and the telephone company's legislative and publicity activities made newspaper "headlines." But it is known that the majority of the commission has felt for some time that the investigation should be concentrated on "meatier" subjects dealing with depreciation, manufacturing costs, and other essential components of the rate structure which do not make good newspaper copy but are major factors in regulation.

The launching of the general investigation of long-distance charges may mean a long, protracted battle over the justness and reasonableness of the present A. T. & T. rate structure for its interstate communications services. The order under which the new investigation will be embarked is not technically a "show cause" order because the commission has not yet accumulated *prima facie* evidence to base a finding for a rate reduction. Nevertheless the A. T. & T. will eventually be called upon to prove why the long-distance rates should not be reduced. The results of the new rate investigation in the next few months will undoubtedly tell the story of its future success because under its present program the $1,150,000 fund for the general inquiry will be exhausted by next February 1st. But the FCC is hopeful that Congress will lean favorably towards a further appropriation if there is a chance to secure a nation-wide reduction of telephone toll rates.

THE procedure in the rate investigation will not be ex parte, since FCC Telephone Division Chairman Walker has announced that the American Telephone and Telegraph Co. will be granted full opportunity to present its case. No plan has yet been formulated by the Communications Commission as to what type or amount of rate reductions will be sought or whether a valuation of the A. T. & T. long lines plant will be necessary to enforce any rate reduction finding. A valuation probably will be avoided, if possible, as the reliable commission estimates are that such a task would consume a year and a half and would cost $1,000,000. Of course, the FCC may achieve reduction through forthright acceptance of its views on rates by the A. T. & T.

In the previous hearings, the commission investigators presented one lengthy exhibit dealing with long lines operations and earnings in which it was alleged that the A. T. & T. had

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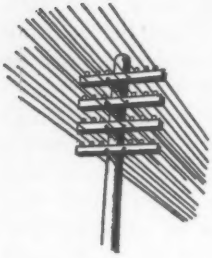
earned rates of return of 10.92 per cent annually from 1913 to 1935, and between the period of 1913 to 1930, of 15.69 per cent. These earnings were based by the FCC investigators on the company's net investment in average plant in service, but, according to A. T. & T. claims, did not include the factor of depreciation which would have revised the rate of return. Depreciation is slated to be a next line of attack by the FCC investigators as well as the division of tolls between the A. T. & T. and its Bell System companies and the independent telephone companies which are linked with the nation's telephone system.

THE general side of the investigation will also proceed simultaneously with the specialized inquiry into the rates and practices of the A. T. & T.'s interstate communications. A study of the A. T. & T.'s huge patent structure, numbering approximately 16,000 inventions, has been completed and will come before the investigation hearings during the fall. Another phase which also is slated to be probed in the future hearings will be the nontelephonic activities of the Bell System, such as the production by Western Electric Co., the Bell System's manufacturing unit, of a large variety of nontelephonic devices including film sound recording equipment and medical apparatus. The objective of the FCC will be to ascertain if the cost of the development of these nontelephonic inventions rests in any way upon the telephone subscriber's rate base either through the expense of the Bell Telephone Laboratories' research and inventing processes or in the manufacturing by Western Electric. The manufacturing cost of the "hand-set" telephones and the justification for the extra charge to subscribers for these instruments, which have been sore spots for the Bell System before many state regulatory commissions, will be additional important subjects.

Even though last spring's hearings were considered ex parte in character and a large share of the evidence with highly controversial conclusions was felt of little value in assisting telephone regulation, some disclosures and results of a constructive nature were possibly brought out. The A. T. & T. and Bell System companies undoubtedly benefited from some FCC revelations which showed potential or "borderline" faults in their many-sided relations with the public.

THE payment of high pensions to retired executives, which in one case amounted to $50,000 a year, was considered one of the outstanding disclosures by the FCC investigators. Even though the Bell System pension plan is predicated upon a certain percentage of the highest salary average multiplied by the years of service, many observers at the investigation felt that it was a possibly bad public policy to pay high pensions to executives who had earned large salaries during their careers. This situation perhaps may be revised due to the effectiveness of the new Social Security Act. Another high point of the FCC investigation attack brought out the substantial decrease in Bell System employment during the depression due to the greatly diminished construction program and the growth of the dial automatic telephone service, but it is known that the telephone sys-

The Independent Telephone Industry



"THE independent telephone industry, according to the FCC investigators' exhibits, was pictured under the 'thumb' of the Bell System, despite the fact that 6,000 independents conduct 15 per cent of the nation's telephone business serving many important communities throughout the nation. These exhibits also failed to note that the independent manufacturing companies have contributed a number of outstanding telephonic inventions, including the standard dial exchange."

tem with the return of increasing telephone installations has been reinstating a considerable number of employees.

The investigation of the American Telephone and Telegraph Co. and Bell System, because it is a virtual national monopoly in telephone service, was not a surprise when Congress in March, 1935, enacted a resolution ordering the Communications Commission to conduct a sweeping probe into nearly every conceivable phase of the industry. Twice before Senate committees had threatened to institute a similar inquiry. The FCC at first received an appropriation of $750,000 to conduct the inquiry, and last June was granted an additional allotment of $400,000 which will carry on the inquiry until February 1, 1937.

THE commission had a two-fold major goal towards which the investigation was pointed. First, it desired full information about the various branches and operations of the telephone industry and, in particular, of the American Telephone and Telegraph Company, which operates the interstate telephonic services of the nation, so that it could have a complete foundation for its Federal regulatory activities. Second, the FCC wanted to assemble for the use of state utilities commissions in their regulation of intrastate and local exchange rates all pertinent and helpful data about the A. T. & T. and its manufacturing and research subsidiaries, the Western Electric Co. and the Bell Telephone Laboratories respectively. Many state commissions in the past have claimed inability to get a complete picture of the parent company and these two subsidiaries. The third objective was aimed at the alleged failure of the telephone companies to reduce rates during the depression and on this issue the FCC undoubtedly felt that it might touch off a nation-wide barrage to lower telephone charges throughout the country.

The telephone investigation was projected as a replica of the Federal Trade Commission's probe into the electric power industry. At its outset the prevailing report in the National Capital was that the investigation might be another major onslaught of

the Roosevelt administration on "big business." However, up to the present, the White House has not taken any active part in directing the course of the inquiry, except when President Roosevelt tried in vain to draft Justice Ferdinand Pecora from the New York Supreme Court bench to become the investigation's special counsel.

THE selection of the legal head of the investigation proved to be a most troublesome problem. The President at first picked former Governor O. Max Gardner of North Carolina to take the post, but the latter only held it a few days when he decided to return to private law practice. Then Justice Pecora, who had won the White House respect for his vigorous conducting of the Senate banking inquiry and later as a member of the Securities and Exchange Commission, was offered the position, but refused the appointment because he had been elected for a 14-year term to the New York bench.

Next came the designation of Samuel Becker, whose appointment was sponsored by his former chief, Governor La Follette of Wisconsin, and by two "New Deal" lawyers, Ben Cohen and Tom Corcoran, who participated in the drafting of the Utilities Holding Company Act. Mr. Becker, who also had taken his law training at Harvard under Professor Felix Frankfurter, was appointed first assistant special counsel, but during last spring's hearings was in full charge as the special counselship had never been filled. Aggressive, alert, and sharp-witted, the youthful Wisconsin lawyer adopted the methods used by Justice Pecora in his Senate banking probe —volleying questions in quick succession at witnesses until he obtained the desired answer for the record.

The organization of the investigating staff also proved a somewhat difficult task. The FCC designated Telephone Division Chairman Walker in full charge of the investigation and its organization. Commissioner Walker then combed the state commissions and Federal agencies to enlist accounting and engineering experts. In charge of the two main divisions of the investigation staff he named two former Wisconsin Public Service Commission experts—John H. Bickley as chief accountant and Cyrus G. Hill as chief engineer. Mr. Bickley was the principal commission witness at last spring's hearings. Mr. Hill has been slated as the key witness for the FCC at the fall hearings as no engineering studies were presented in the spring inquiry.

IT was a task of several months for Commissioner Walker to form his staff because he had to meet the "red tape" routine of Civil Service rules on one hand and to resist patronage pressure on the other side. In the late fall of 1935, the staff was fully lined up, comprising over 300 employees including clerical workers, but during the past summer this force was slashed in half owing to dwindling appropriations.

Last spring's hearings carried a dominant trend throughout most of the sessions—theories which have characterized much of the aggressive regulatory work of the Wisconsin Public Service Commission. Naturally, Messrs. Becker and Bickley, both fresh from their experience with the

Wisconsin commission brought forward views of that state body. In several of the important phases of the proceedings, particularly dealing with subjects which were related to the conduct of the telephone business from a rate base status, the Wisconsin commission's evidence in previous cases was utilized by the FCC investigators as the bedrock of their assault on the A. T. & T. and Bell System activities. The Wisconsin commission viewpoint, it seemed, came most to the forefront in the FCC hearings on the license contract of the Bell System and the change by the A. T. & T. in 1927 from the policy of renting telephones to the Bell companies to the sale of the instruments to them.

In his testimony and exhibits, witness Bickley endeavored to show that the A. T. & T. as a holding company should furnish its engineering, research, and management services to the Bell companies free, as a means of protecting its investment in the operating carriers. A number of A. T. & T. witnesses were placed on the stand and confronted with testimony given by the former A. T. & T. head, Theodore N. Vail, in a case twenty years ago. The FCC counsel tried to show that Mr. Vail's views indicated an acceptance of the holding company obligation to furnish these services without charge, although it was conceded that the A. T. & T. was then receiving its compensation through rental of the instruments. On the sale of the instruments to the Bell companies, the FCC investigators sought to charge that not only was a $14,000,000 profit made by the A. T. & T., but that the parent company had "unloaded" the desk or upright telephone sets on the operating carriers at a time when "hand sets" were just coming into vogue.

These charges (which the A. T. & T. was given no opportunity to rebut) precipitated a major protest by the telephone company counsel against the character of the proceedings. The censure scored a hit apparently as A. T. & T. President Gifford was permitted to describe the situation. Mr. Gifford related that the sale of the instruments had reduced very sharply the payments by the Bell companies to A. T. & T. and stated that the parent company paid out more than it received from the associated Bell companies for the license contract services on research, engineering, and management. The FCC investigators' theories are also contrary to the policy of the Securities and Exchange and Power Commissions which at least allows services to be rendered at cost.

Mr. Gifford also countered the view that any profit had been made in the sale of instruments, citing that the sale price had been based on a fair market value less depreciation.

¶ *"In his testimony and exhibits, witness Bickley endeavored to show that the A. T. & T. as a holding company should furnish its engineering, research, and management services to the Bell companies free, as a means of protecting its investment in the operating carriers."*

To the allegation of "unloading" desk sets, Mr. Gifford sought to show that "hand sets" were just being considered in 1927, and even now did not constitute one third of the instruments in service.

The first three days of the investigation hearings, mid-March, 1936, were devoted to two phases by counsel Becker—the laying of a foundation to show the "giant" monopoly of the A. T. & T. and the attempted exposure of telephone company's activities which were distinctly not in the public interest. The plan was, apparently, to bring to light "skeletons" in the A. T. & T. "closet." The aim of this "exposé" phase of the investigation also seemed designed to refute a statement of Mr. Gifford at the time of the launching of the probe that the telephone company was glad to coöperate and hoped for a constructive and beneficial inquiry because it had no skeletons to hide.

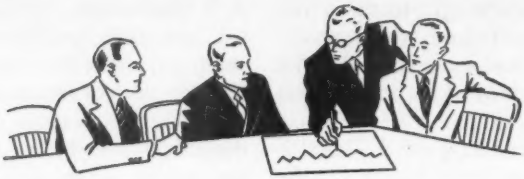
THE labor policy of the A. T. & T. during the depression proved the highlight of the first day's hearings, coupled with reference to the $206,000 annual salary of the company's president.

Mr. Becker in his examination endeavored to link the mechanization of the telephone system—the dial exchanges—with the sharp decrease in Bell System employment, but Mr. Gifford brought out that the depression had caused a drastic decline in telephone plant construction which had characterized the industry in the five years prior to 1930, and that owing to the decrease in telephones the usual training school of 50,000 operators was eliminated.

ANOTHER point of attack was on the relationship of Western Electric Co., the Bell System manufacturing company, with the Graybar Electric Co., the sales organization which markets Western Electric products to independent telephone companies and the public. The FCC investigators showed that the claimed "independence" of the Graybar which had been utilized by the Bell System in rate cases was not a fact and that Western Electric through corporate devices actually dominated the sales concern. Graybar prices to independent telephone companies are higher than Western Electric prices to Bell companies.

The next phase of the investigation created "headlines" even in competition with the disastrous Pennsylvania, New York state, and New England floods that occurred last spring. Mr. Becker brought out the use of the A. T. & T. wires by the nation-wide news service to carry horse racing news into the haunts of "bookies" as a "trump card" to show the telephone company had failed to observe proper public policy. Testimony of the president of the international police chiefs' association and a Rhode Island state attorney general was produced to demonstrate gambling as the greatest crime evil since the demise of bootlegging. A number of A. T. & T. attorneys and officials were placed on the stand to relate activities in connection with the rescue of telephone equipment after gambling raids. The allegation was advanced in several instances of restoration of service to convicted bookmakers.

Telephone Division Chairman Walker created a sensation by ask-



Commission's Attitude toward Company

"Now *there seems to be a tendency on the part of the FCC to turn away from an attitude of hostility towards the telephone industry to one of viewing the practical operations and problems of the service; and this change of policy, if it materializes, should lead to aggressive but more constructive Federal regulation.*"

ing the Justice Department to investigate the A. T. & T.'s violation of law in rendering this service and J. Edgar Hoover, chief of the "G-men," was asked to probe the situation. But early this fall came the Justice Department's answer that there was no Federal statute to bar the use of wires by the horse racing news service. President Gifford and the A. T. & T. general counsel, Charles M. Bracelen, emphasized that the telephone company would welcome a law to relieve it of the furnishing of this service but that the Bell System could not become a spy or censor of the public activities without such a statute.

Next was a picture of the monopoly of the A. T. & T. The investigation chief-accountant Bickley described the complete domination of the telephone industry by the A. T. & T. and Bell System—but, even though the monopolistic position is a fact, in the minds of observers there recurred that cynical inquiry: "So what?" It has been an admitted congressional view that a single telephone system leads to better and more coördinated service. Through the furnishing of wires to newspapers and broadcasting stations Mr. Bickley endeavored to picture the dominant position in the control of news and radio dissemination, while the moving picture industry was invaded by the A. T. & T. through its nontelephonic products, the sound film apparatus produced by Western Electric. He even projected the A. T. & T. into a dominant control of international communications through its transoceanic radio-telephone services.

The independent telephone industry, according to the FCC investigators' exhibits, was pictured under the "thumb" of the Bell System, despite the fact that 6,000 independents conduct 15 per cent of the nation's telephone business serving many important communities throughout the nation. These exhibits also failed to note that the independent manufacturing companies have contributed a number of outstanding telephonic inventions, including the standard dial

exchange. The FCC investigators pictured only 184 independent companies with 35,000 telephones as "completely free" of Bell domination, because these companies were not linked with the nation-wide long-distance service.

One other phase was developed during this depiction of the monopoly position—alleged "commercial banking" operations by a Western Electric subsidiary, Electrical Research Products Inc., the sound film products' sales agency. ERPI loaned money to film producers and studios to salvage debts for equipment sold to theaters and even engaged in producing films, it was developed.

Taking a leaf out of the Federal Trade Commission power probe, Mr. Becker turned his fire upon alleged lobbying practices of the telephone company and utilized a series of exhibits—63 letters gleaned from the files of the A. T. & T. and two Bell companies from 1920 to 1935,—in an attempt to show legislative pressure methods. In many cases, however, the letters seemed to border on enthusiastic reports by telephone company legislative representatives on the course of legislation rather than any direct action to "kill" or to prevent the passage of bills.

In two cases the FCC counsel developed that the telephone company lawyers had aided in the drafting of legislation but the full text of the letters showed that in one case a state tax official and in the other a state public service commission had desired the assistance. The lobbying inquiry did produce one immediate result—the A. T. & T. president declared that he would study all the facts in an effort "to raise what I consider a very high standard to a still higher standard" in Bell System legislative practices. One of the criticisms suggested by the FCC witnesses seemed to be directed against the strenuous opposition of the A. T. & T. to the passage of the Johnson Act, which ousted lower Federal courts' jurisdiction in state rate cases.

The FCC gave the pension plan of the American Telephone and Telegraph Co. System a considerable amount of attention particularly with respect to the pensioning of executives. The disclosures on the Bell System pensions had a political impact because the telephone plan had frequently been cited in congressional debate during the passage at that time of the Social Security Act as a model private industrial pension system. The investigators brought out a few cases of employees who had nearly completed their service terms being refused pension benefits. The use of the pension benefits as a weapon to end strikes between 1917 and 1919 was also alleged.

Another ostensibly shocking picture, charging the permeation of the A. T. & T. into many leading industries and banks of the nation, together with participation in civic affairs as a medium of public relations to increase good will towards rate increases, was presented in the testimony of one FCC investigator, an erstwhile Harvard University economics instructor. He tried to trace the web of these interlocking relationships in the positions held by telephone company directors and officials.

The wide use of banks by the tele-

¶ *"A NUMBER of A. T. & T. attorneys and officials were placed on the stand to relate activities in connection with the rescue of telephone equipment after gambling raids. . . . President Gifford . . . emphasized that the telephone company would welcome a law to relieve it of the furnishing of this service but that the Bell System could not become a spy or censor of the public activities without such a statute."*

phone companies as depositaries for their funds was illustrated as a method of enticing public good will by enlistment on the side of the telephone company the support of the leading citizens of the community. However, most of the interlocking relationships came in the case of nontelephone directors of the Bell companies while the actual officials of the telephone carriers held only comparatively few such posts in relation to the total interlocking positions cited.

In the case of the banks, the FCC investigator pointed out that during the depression the Bell System experience in closed banks was practically as bad as that of the general public in loss of funds despite the supposedly expert advice by A. T. & T. financial officials. One gap in his testimony on the point of the wide diffusion of banking deposits was that the subscribers benefited in convenience through this system by the use of banks for the collection of bills.

THE increase of telephone rates in the 1920's, which had been a major campaign of the Bell System, formed a leading subject for the investigation. A. T. & T. officials defended the fight for higher rates at that time by showing that post-war conditions and inflated prices necessitated a substantial increase in telephone income to institute improved service, betterment of the plant, and higher wages for employees in view of the sharp growth of telephone service at that time. One phase of the testimony—the use of a Washington public relations expert during the early twenties—to sound out public opinion and the views of state officials in two states at a substantial fee brought out what was believed to be an example of questionable propaganda practices by the telephone companies.

Besides interlocking industrial relationships and the wide use of banks, the FCC investigators painted a picture of the participation by Bell System officials and employees in civic affairs and chambers of commerce and similar organizations as part of the telephone company's program of permeating a community's life. It was charged that the Bell System spent $4,000,000 in the ten years from 1925 to 1934, which was allocated to operating expenses and directly assessed against the ratepayers in contributions and memberships in these civic organizations. The attention given to the participation by the telephone company, even though of a passive nature, in the Chamber of Commerce of the United States was noted with interest,

probably because of the reports of a feud at that time between the administration and the chamber. Another point of attack was directed against the positions of trustees and alumni officers in many leading universities and colleges held by Bell System directors and officials. Harvard was cited as the flagrant example with ten such representatives, including A. T. & T. President Gifford who had been chosen an overseer by a vote of the alumni.

THE investigation next took a shot at the prize boast of the A. T. & T.—its wide distribution of stock among 650,000 stockholders. An array of statistics was advanced to illustrate that 5 per cent of the shareholders own more shares than the 250,000 stockholders possessing from one to five shares. The latter group formed 50 per cent of the total number of stockholders, but the A. T. & T. later showed that among the larger stockholders were insurance companies, universities, and investment trusts as well as individuals. Another assault was on the nation-wide distribution of the A. T. & T. stock, and the FCC investigators tried to show that the preponderance of the stock was held in three eastern states, New York, Massachusetts, and Pennsylvania. The allegation was advanced that states with a smaller number of stockholders bulked large in contributing telephone profits which were paid out in dividends.

From the standpoint of the Communications Commission, the results of the general investigation and the rate inquiry are expected to form a backlog for its future regulatory functions. Then, too, the FCC under its enabling statute will be in a position to furnish data and material, obtained in the investigation, to state commissions for their regulatory activities. The investigation has had some indirect results, in the viewpoint of the governmental authorities, in the form of regulatory kudos for the Federal Commission because since the FCC was created, the A. T. & T. has voluntarily instituted four toll rate revisions or reductions, together with an overhauling of its line charges for broadcasting stations. Now there seems to be a tendency on the part of the FCC to turn away from an attitude of hostility towards the telephone industry to one of viewing the practical operations and problems of the service; and this change of policy, if it materializes, should lead to aggressive but more constructive Federal regulation.

The Need of Conservation

"THERE still is in the world an abundance of natural resources such as coal, oil, gas, and flowing waters, that can be conveyed into power which in turn can be utilized for the great benefit of the people. Let us not repeat the mistake that has been made so persistently in the past of utilizing these resources with no thought of the future, but with our minds fixed only upon the opportunity of taking as large a present profit as possible out of nature's bounty."

—HAROLD L. ICKES,
Secretary of the Interior.

New Deal "Education" on the Power Problem

Showing how, in the opinion of the author, public ownership proponents have adopted practices which, when used by utilities, were stigmatized as vicious propaganda.

By GEORGE E. DOYING

THE pastor of a poor congregation once received from a patent medicine company an offer to furnish free song books to the church. Inoffensive advertisements were to appear in the front and back of the books. The pastor accepted the offer and the hymnals duly arrived. The ads were found to be unobjectionable and the pastor distributed the books on the following Sunday, explaining how they had been obtained. During the service the congregation was called upon to sing hymn number 123, and when the worshipers reached the second verse this is what they found:

Hark, the angel voices sing;
Johnson's pills are just the thing.
Angel voices meek and mild;
Two for man and one for child.

The pastor and congregation thus awoke to the fact that specious representations of something for nothing (or for less than normal value) usually include a hidden *quid pro quo*.

The advocates of public ownership of utilities (particularly of electric utilities) in the New Deal administration at Washington seem to have overlooked this method of promoting their cause. The idea is here offered to them, including an adaptation of the same hymn. Thus:

Hark, the angel voices sing;
Municipal power is the thing.
Angel voices bright and quick;
Federal grants will do the trick.

Except for such extreme (some folks might say sacrilegious) devices to encourage public ownership, New Deal agencies have missed few opportunities to portray the advantages claimed to follow closely in the wake of "cheap power," which, they would have the people believe, can be ob-

tained only through public ownership. They have been strongly supported by some members of Congress who in one breath assail the "Power Trust" for alleged excesses in publicity activities, and in the next indulge in the most extravagant, sometimes maudlin, statements concerning the blessings of public ownership.

IN a report to the United States Senate in 1934, on the utilities investigation started in 1928, the Federal Trade Commission framed an indictment of the utility industry for its publicity activities in previous years.

"Broadly," said the commission,[1] "the plan has been to instill in the general public an attitude harmonious with the wishes and program of the private utilities. The effect is that that portion of the public thus *'educated'* or influenced stands foursquare for all the things which the utilities desire and directly opposed to all those things which the utilities do not desire."

One might gather that, in the opinion of the Federal Trade Commission, the utilities should have devoted their efforts to inducing the public to favor those things which the utilities considered detrimental to their interests.

Among the indictments found in this report may be found this paragraph:

> Recognizing the important position of the country's educational systems as an opinion-forming factor, in line with their general program the utilities planned carefully and bestowed attention everywhere and continuously upon educators and educational institutions.

MUCH has been made of this report by the New Deal administration, public ownership proponents, and antiutility politicians. It has been held up as proof of the perfidious machinations of the "Power Trust." Nothing was said, of course, either in the report or by those who extolled it, of the reasons actuating the utilities for actively seeking to present their story: the need to combat demagogic propaganda in behalf of public ownership; a natural desire, inherent in every well-managed and successful enterprise, to gain the good will of the people with whom it deals; the obligation to safeguard the investments of millions of stockholders and bondholders; the sensible practice of seeking to inform customers, present and potential, of new and beneficial uses to which a product may be put.

However, like many another New Deal tenet, these practices which are held to be reprehensible when followed by industry are considered quite proper when pursued by the pure of heart. Note, for example, the "Power" issue of *Building America,* a monthly publication fostered and financed by the Federal Works Progress Administration.

THIS booklet is designated as "a photographic magazine of modern problems." Ostensibly presenting both sides of the power "problem," the text contains such passages as the following:

> Most of the electric industry in America, however, is controlled by ten or twelve large systems of holding companies. These companies, through owning stock in operating companies, control them. Although operating companies have been regulated for some years by state commissions, holding companies were not publicly regulated until Congress passed the Public Utility Act of 1935. This act was mainly designed to protect small stockholders and to help bring lower electric rates.

[1] Senate Document 92, Part 71, 70th Congress, 1st session.

While states and the Federal government have helped, local city governments have obtained lower rates by another method. Many cities have built their own public power plants, as they have their own water supply systems. Such municipal plants are sometimes called "yardsticks" because they measure the fairness of rates.

According to the U. S. Census of 1932 these municipal plants charged homes an average rate of 4.7 cents a kilowatt hour while privately owned companies charged 5.6 cents. Instead of cutting rates greatly, many cities with municipal plants have supplied themselves with free lighting for streets and city buildings. Some have used the profits on their plants to cut taxes on homes and other real estate. In short, city-owned plants have brought lower electric rates and lower taxes.

The Federal government is making cheap power by building large dams and hydro-electric plants in the West like those at Boulder dam on the Colorado river.

Private companies oppose Federal power projects and municipal plants because their experts think that these "yardsticks" increase taxes and ruin stockholders. Government experts, however, believe such yardsticks can save the American people money through lower electric rates, as is now being done in the Tennessee valley.

In conjunction with this issue of *"Building America"* there was prepared by the same Federal agency a "teachers' guide." Yes, indeed! The pupils of the public schools are to be told what is best for them. One of the questions to be put to the pupils to enable them to solve the "problem" is:

"Should the government build its own power plants, *which will help to reduce the price of electricity to many consumers?*" (Above emphasis supplied.)

HAVING read the foregoing excerpts and having little or no other information, would the average public school pupil recognize a "problem" or would he form a conclusion that public ownership of electric utilities is his only means of obtaining the full benefits of electricity?

Another example of the difference seen by New Deal agencies in the relative blackness of the pot and the kettle may be seen in the circumstances surrounding the publication of a laudatory article on the Tennessee Valley Authority in the journal of the National Education Association for December, 1934. The matter was discussed in the United States Senate by Senator L. J. Dickinson of Iowa, in part as follows:[2]

Thus is revealed an agency of the Federal government engaging in a propaganda trick that amounts to a public fraud—a deception as black as any charged against its public utility opponents. TVA has employed a writer of reputation to prepare an article purely for propaganda purposes, pleasingly painting its arguments, and has paid this man to place the article within the covers of the journal of the National Education Association as a *bona fide*, unbiased study of a great Federal experiment. The deception lies in the fact that the readers of this article—and it has been reprinted for classroom use, large quantities having been purchased for free distribution by TVA—are forced to assume that the writer has written freely from his own observations.

Most of the public utterances and

[2] *Congressional Record*, 74th Congress, 1st session, p. 823.

¶ "MOST *of the public utterances and activities of Federal officials do not reveal a desire to effect the socialization of the electric power industry. Yet it is fairly obvious that this is the underlying purpose which actuates many of them. Others seek merely to bring the privately owned electric utilities under such complete Federal domination as virtually to accomplish the same end.*"

activities of Federal officials do not reveal a desire to effect the socialization of the electric power industry. Yet it is fairly obvious that this is the underlying purpose which actuates many of them. Others seek merely to bring the privately owned electric utilities under such complete Federal domination as virtually to accomplish the same end.

OFFICIALLY, Public Works Administrator Harold L. Ickes seeks only to give and lend Federal billions to state and local public agencies which are able and willing to provide work for the unemployed. Yet he has established special facilities to encourage municipalities to build electric plants, which do not rank first as work-producing projects.

Officially, Morris L. Cooke, head of the Rural Electrification Administration, thinks it would be "a calamity" if the Federal government were to take over the electric business all over the United States.[3] Yet Mr. Cooke's agency is engaged almost exclusively in promoting local coöperative groups which will borrow Federal cash with which to construct electric lines to farms. About 85 per cent of all loans made by the REA have gone to such *quasi* public agencies.

True, the Rural Electrification Act of 1936, under which this agency is now operating (after a year's operation under presidential decree), provides that loans shall be made for construction into territory not receiving central station service, and that preference shall be given to public and *quasi* public groups. These provisions, however, merely carried into the statutes the policies followed by Mr. Cooke when he was a comparatively free agent.

Officially, the Electric Home and Farm Authority was brought into being by President Roosevelt's order (and long afterward given recognition by Congress) to aid in financing purchases of electric appliances. Yet, with no means of determining the reasonableness of rates, it has decreed that no utility shall partake of its favor unless that utility's rates conform to certain specifications.

Officially, the Tennessee Valley Authority is engaged in a variety of activities designed to rehabilitate the people of a large part of the South, and to improve navigation on the Tennessee river. Yet it is a generally admitted fact that the chief purpose of the TVA is to produce electric energy and distribute it through publicly owned agencies.

IT is here more than in any other place that the effect of constant sniping at the electric utilities may be observed. The TVA officially denies sponsorship of such tactics as those adopted in certain parts of Georgia, but the fact remains that the following amazing petition was circulated in an attempt to boycott a privately owned utility:

> Realizing the value of electric power on the farm and in the home, and realizing that it is highly important that this service be rendered at a low and reasonable price, we, the undersigned, subscribe to the following ideals:
>
> WHEREAS, we understand that rural electric lines have been approved for construction through the coöperation of the Tennessee Valley Authority on all roads of the county that present a feasible possibility, and on these roads that have presented a feasible possibility from the standpoint of

[3] Hearing on rural electrification bill before House Committee on Interstate and Foreign Commerce, March 12, 1936.

Chief Aim of the TVA

"OFFICIALLY, the Tennessee Valley Authority is engaged in a variety of activities designed to rehabilitate the people of a large part of the South, and to improve navigation on the Tennessee river. Yet it is a generally admitted fact that the chief purpose of the TVA is to produce electric energy and distribute it through publicly owned agencies."

kilowatt-hour consumption construction will be started at once. It is expected that this service will be available in Catoosa county in not more than three months. And

WHEREAS, we understand that construction of all lines depends on the coöperation of all persons along the line, in that each person who accepts electric service from a utility is impairing the chance of his neighbor, his community, his county, and his neighboring county from receiving in many cases any power of any kind, and

WHEREAS, we realize that any person that permits service to be rendered him by a utility is making it impossible for him to ever be served by TVA power, and

WHEREAS, in the interest of this movement we make the following agreement, the provisions of which we intend to faithfully follow out in so far as is humanly possible.

1. We refuse to permit services to be rendered by public utilities under any circumstances, to refuse to permit the installation of meters or the connection of any wires, agreeing to do this in order that we may receive TVA service in about three months or less.

2. To provide the necessary rights of way for construction of TVA lines across our property without cost.

3. To refuse under any and all circumstances to give, sell, lease, or rent, or in any way make available right of way to a public utility unless such permission has been granted prior to the time I have signed this paper.

4. That I will use my influence with my neighbors in carrying out this objective.

I sign this agreement in the interest of myself, community, and county.

Officially, the Federal Power Commission exists for the purpose of protecting the navigable waters within the United States by controlling the construction of hydroelectric plants, and more recently to regulate the transmission and sale at wholesale of electric energy in interstate commerce. Yet representatives of the commission were instrumental in seeking from the 74th Congress approval of a "new power policy" that would have established the commission as czar over the rates of all Federal power projects under a fantastic rate-fixing formula susceptible of use as a club for the purpose of driving many operating utilities into oblivion.

When Mr. Roosevelt was campaigning for the presidency in 1932 he said at Portland, Oregon:

> State-owned or Federal-owned power sites can and should be properly developed by government itself. When so developed, private capital should be given the first opportunity to transmit and distribute the power on the basis of the best service and the lowest rates to give a reasonable profit only.

Not one instance can be cited where primary consideration has been given by the Roosevelt administration to transmission and distribution of power from Federal plants by private capital. On the contrary, every piece of legislation submitted to Congress with the President's approval has provided that preference shall be given to public agencies. And practically every utterance on the subject by President Roosevelt and his appointees has been designed to encourage states, districts, and municipalities to engage in the power business.

JACK Lait, famous editor, author, and playwright, substituting recently for Walter Winchell, wrote this:

> In redskin Indian lingo, "Walla Walla" means "Water, Water," and the town of that euphonious monicker in Washington on a river was named therefor. They liked the idea so well they named it twice. But in Chinese it is the equivalent of the Scotch "blather," the Yiddish "schmoos"—idle talk or in plain United States, HOOEY.

The appellation might well be applied to some of the material with which utility baiters seek to invoke tears for the sorry plight of those who are deprived of electricity and those who are ground beneath the heel of the rapacious "Power Trust."

One of the chief exponents of this questionable art is Representative John E. Rankin, who hails from Tupelo, Miss. Mr. Rankin has used dozens of pages of the *Congressional Record* to set forth the virtues of the TVA and otherwise seeking to demonstrate that Utopian conditions are just around the corner, once the "Power Trust" is effectively curbed. One of his best heart-rending efforts [5]—a species of the "Before and After Taking" device—is reproduced on page 644.

NOW, this word picture, of course, could be true. Mr. Rankin, however, leaves much to the imagination. Perhaps, between his alleged visits, the woman's husband cashed his bonus check, or maybe her rich Autralian uncle passed away, leaving her a modest fortune. Somehow the family must have acquired $500 or more to paint and wire their house, install the enumerated appliances, and do all the other pleasant things, not to mention ability to meet a monthly electric bill of $5 or more, even at TVA rates.

Mr. Rankin, obviously, would have his audience believe that the difference of a few cents a month between the subsidized TVA rates and those of the privately owned utilities in this area was responsible for the miracle he so graphically portrayed. Common sense interposes a question mark.

While the Mississippi Congressman may have drawn somewhat extravagantly upon his imagination, it remains for a Representative from Pennsylvania, the Hon. Henry Ellenbogen, to be downright careless with the truth. Says Mr. Ellenbogen: [6]

> While home owners and farmers are taxed for the cost of government, the utilities, through their control of state and local governments, have escaped payment of taxes.

UNFORTUNATELY for Mr. Ellenbogen's astonishing ignorance of the facts the Federal Power Commission, soon after the Pennsylvanian's impassioned speech, came forth with a report dealing in part

[5] *Congressional Record*, 74th Congress, 2nd session, p. 10824.

[6] *Congressional Record*, 74th Congress, 2nd session, p. 11053.

HOW TO KEEP FROM GROWING OLD

As Portrayed by Representative John E. Rankin, of Tupelo, Miss.

"CHEAP ELECTRICITY"

BEFORE TAKING

Let me give you an example of how cheap electricity relieves the drudgery of women who have to do their own work. Sometime ago I passed by a rather modest home and saw a little woman out in the yard doing the family washing. Although the weather was extremely hot, she had a blazing fire built around a large pot and she was standing over it punching the clothes down with a long stick, when she was not engaged in replenishing the fire, pumping water—or rather drawing it from the well—looking after her children, or running in and out of the kitchen to see about the dinner that she was cooking. She would then bow down over that board and that hot water and with her hands scrub those clothes for probably an hour or two. Then she would lay them on a block and take a battling stick and beat them till it seemed as if she was knocking all the buttons off. I presume she had to sit up at night and sew those buttons back on—while she rested.

She would then rinse those clothes in cold water, wring them out with her hands, hang them on the line, and hurry into the house and prepare supper. By that time the day was gone.

Tired and worn, looking older at thirty-five than she ought to look at sixty, she sat down to the family meal—without ice and without fans. Of course, her day's work was not over; there were dishes to wash, children to bathe, and other household duties to perform before she could get any rest.

The next day, after her other household work was completed, she had to iron those clothes. She built a hot fire in the fireplace or in the stove, heated her iron, and spent the rest of the day leaning over it ironing the family clothes—absorbing about as much heat as the iron did.

Of course, this is only a portion of the household duties which go on from day to day and from week to week, in endless succession. This picture may not appeal to all of you. Some of you may not realize the drudgery women have to perform.

AFTER TAKING

The next time I saw that home it looked like a new place. The house had been repainted, and other improvements indicated that it had taken on new life. A new power line had been built out to it, and the house was fully electrified, at TVA rates. An electric pump had been installed, and the house was supplied with running water. It was not even necessary to press a button, since the pump was automatic.

An electric washing machine had been provided, with an electric wringer attached, as well as an electric iron. The drudgery of washing clothes was gone. The clothes were simply placed in the washing machine, a switch was turned, and in two hours the clothes were washed and hanging on the line. The electricity necessary to operate that machine for a family of five people costs less than $1 a year, under the TVA yardstick rates.

That woman looked twenty years younger than she did when I had last seen her scrubbing those clothes in the hot sun. She was happy and enthusiastic over these new additions to her home. She showed us through her kitchen. It was as clean as a soda fountain. An electric refrigerator provided more ice than the family needed and at the same time kept the meats, eggs, milk, butter, and vegetables cool and fresh.

An electric range had replaced the old wood or coal stove and, as she expressed it, rendered cooking a pleasure; and, strange to say, it cost less to operate it than it did to furnish fuel for the old one.

That woman uttered one expression that told the whole story. She said, "We have just now begun to live."

This is typical of the changes that are taking place in the TVA area.

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with the utility taxes. Let the commission speak:[7]

> Complete data regarding payments of all forms of taxes and regarding operating revenues for 1933 and 1934 were received from 1,216 privately owned utilities, which represent, on the basis of total operating revenues and taxes paid, approximately 98.5 per cent of the entire industry.
>
> The total taxes paid by the reporting private electric utilities in 1933 amounted to $206,988,870, which was 12.5 per cent of

[7] Federal Power Commission press release No. 99, July 12, 1936.

their total base revenues for that year. In 1934 the total taxes paid by those utilities increased to $239,773,260 and constituted 14.1 per cent of the total base revenues.

In 1933 Federal taxes constituted 27.9 per cent of the total taxes paid by private utilities, or 3.5 per cent of the total base revenues. In the same year state and local taxes comprised 72.1 per cent of the total taxes paid by these utilities, or 9 per cent of the total base revenues.

Many other incidents could be cited of misleading, exaggerated, often untrue statements by men of high position who, sometimes moved to an excess of zeal by sincere but unsound convictions, more often in quest of political aggrandizement, indulge in flights of fancy.

ONLY occasionally is it possible, from public utterances, to see through the mask. Such an occasion was a hearing, June 4, 1936, before the House Committee on Rivers and Harbors, considering "bills to authorize completion, maintenance, and operation of certain facilities for navigation on the Columbia river, and for other purposes" (which means the generation of electric power). Representative Walter M. Pierce of Oregon speaks:

> Of course, the dream of power men [meaning public ownership power men] is that the United States will be divided into about eight districts, and an authority [like the TVA] created for each of those six or eight districts, the Pacific northwest forming one of those districts. There will be such legislation offered for the next session of Congress to my certain knowledge.

When the American people come to a full appreciation of the power program of the Roosevelt New Deal administration, the "dream of power men" will take its place in the limbo of discarded experiments to which the Passamaquoddy tidal power project has already been consigned. The following pseudo-epitaph to Quoddy written by a Maine editor is, in essence, equally applicable to schemes to socialize the electric power industry in the United States:

> Starting out to build one of the largest and certainly the most unique power developments in the world and ending up with a hospital on the shore of the sea is typical New Deal planning and execution.

It is not of record whether the pastor mentioned at the beginning of this article returned his "free" song books, or sold them to a junk dealer, or continued to use them at the expense of anguish of heart and mind.

At least some of the municipalities which harken to the siren song of public ownership will eventually be called upon to make a similar choice, except that the anguish will be that of the taxpayers.

Municipal Ownership Goes to the Morgue

A RECENT magazine item brings the interesting news that municipal ownership in Bulgaria has gone into the undertaking business. It appears that the municipal government of Sophia in Bulgaria has taken this step to solve the high cost of funerals. The report states that all private undertaking establishments in Sophia, which is the capital city, have been abolished and the municipality hereafter will conduct all funerals of its citizens at set prices. Four classes of funerals were scheduled. The first is available only to the well-to-do. The fourth is for the poor and costs the approximate equivalent of $15 in American money, and covers the following burial items: coffin, service, burial ground. The fourth class funeral is also reported to be available without cost to families who are too poor to pay anything.

Financial News and Comment

By OWEN ELY

Federal Light & Traction Co.

FEDERAL Light & Traction Co., affiliated with the Cities Service system, has subsidiaries operating in seven western states and in New Brunswick, eastern Canada. Some 34 communities are served in Arkansas, Missouri, Washington, New Mexico, Arizona, Colorado, and Wyoming, in Rocky Mountain territory and in Canada. Negotiations to sell the Canadian properties were reported under way last December.

Total population served is about 355,000. About 72 per cent of gross revenues is obtained from electric service, 18 per cent from gas, and 10 per cent from ice, water, steam heating, and transportation.

The company is controlled through ownership of about 65 per cent of the common stock by Cities Service Power & Light Co., a subsidiary of Cities Service Co. In turn it controls some seventeen companies, with ten other companies a step further removed. It owns virtually all the securities of its subsidiaries (with one or two exceptions where the minority interest is unimportant).

As of December 31, 1935, total system assets amounted to about $50,000,000 against which there were funded debt, subsidiary preferred stocks, and minority interests totaling about $21,092,000, 44,374 shares of $6 preferred stock and 524,902 shares of common stock. In addition to the funded debt there were bank loans of $1,342,760 (since reduced to $700,000), secured by bond collateral.

With no capital pyramid and operating largely outside the big industrial centers, the company was able to make an excellent showing during the depression and to continue regular dividends on its preferred stock. Had it not been for the desirability of reducing bank loans, payments on the common (discontinued during 1933) might have been continued. The earnings record in recent years has been as follows:

	Earned per Share		*Paid on Common*	
	Preferred	*Common*	*Cash*	*Stock*
1935*	$30.30	$2.05	—	—
1934*	21.54	1.31	—	—
1933	23.05	1.44	$0.25	1%
1932	29.28	1.97	1.38	4
1931	34.53	2.50	1.50	4
1930	39.25	3.11	1.50	4
1929	40.12	2.88	1.32	4
1928	38.51	2.86	0.80	4
1927	28.25	2.04	0.80	4
1926	30.49	2.26	0.80	4

*Fiscal year ending September 30th.

IN the current fiscal year earnings showed a rapid increase. In the quarter ended June 30, 1936, 69 cents per share was earned against 47 cents in the same period last year, and in the twelve months ending with that date $2.59 was reported against $2.07 in the previous twelve months. It seems likely, therefore, that earnings for the fiscal year ending September 30th may prove the best in five years. The increase of 9.5 per cent in gross revenues for the twelve months ended June 30th reflected largely higher agricultural income, in-

creased lumbering, and improved mining activity in the territory served. With fairly well-situated industries of small size lending support to the more important communities served, the outlook for further revenue gains is promising, according to *Standard Statistics*.

All of Federal Light & Traction Company's securities are listed on the New York Stock Exchange. The five bond issues (first 5s and 6s and debenture 6s) are all selling in a range of about 102–4; the first lien 5s and 6s are callable at 102 and the debenture 6s at 105. Bond interest is being covered about 2½ times currently. The $6 preferred stock is selling slightly under the 100 level, and the common is currently around 25 (range this year 18¾–27⅝).

As soon as the bank debt is cleared up, it seems likely that dividends will be restored on the common stock. If the sale of the Canadian properties, pending for some time, should be effected, bank loans might be cleared up more quickly. While the fact that depreciation amounts to only about 5½ per cent of gross revenues should be kept in mind, in connection with the price-earnings ratio, the common stock priced at about ten times earnings would seem to offer long-term appreciation possibilities.

August Earnings Reports Favorable

APPARENTLY the retarding effects of the drought on the earnings of electric power companies have either proved of isolated character, or have been well absorbed by the rising tide of gross and the savings due to refunding operations. Reports of consolidated system earnings in August (subject to year-end adjustment of taxes), for leading companies which report monthly, are as follows:

American Gas & Electric reported August net income about 35 per cent over last year. In the twelve months ended August $2.21 was earned on the common stock against $1.78 in the previous period.

American Light & Traction Co. in the twelve months ended August 31st reported earnings equivalent to $1.65 per share on the common stock, compared with $1.11 for the previous period.

American Power & Light for the quarter ended August 31st earned $1.17 a share on the preferred stock, compared with 71 cents last year. In the twelve months ended the same date $5.55 per share was earned, leaving a balance of 6 cents a share on the common stock; in the previous twelve months $3.72 was earned on the preferred. The company is now paying the full current dividend rates on its preferred stocks, although accumulations have not been cleared up.

American Water Works & Electric Co. reported for the month of August an increase in gross income (before depreciation) of about 3 per cent over last year; in the twelve months ended August 31st $1.61 a share was earned on the common stock against 99 cents last year.

COMMONWEALTH & Southern for the month of August reported a gain in net income of about 72 per cent over last year. For the twelve months ending August 31st net income gained about 37 per cent; 7 cents a share was earned on the common stock compared with a deficit of 2 cents last year.

Electric Power & Light for the quarter ended August 31st reported net income of $1,607,208 (equivalent to 5 cents a share on the common stock) compared with a deficit of $710,190 in the same quarter of 1935. For the twelve months ending August 31st, 28 cents was earned on the common against a deficit of $1.70 last year. The sharp recovery in earnings was largely due to the gains made by the subsidiary, United Gas Corporation, whose net income in the quarter ended August was about five times as large as last year. For the twelve months' period United Gas reported 6 cents on the common stock against a deficit of 65 cents last year.

National Power & Light in the quarter ended August 31st earned 14 cents a

share on the common stock against 10 cents last year; for the twelve months ended August 31st, 92 cents against 81 cents.

Public Service Corporation of New Jersey in the month of August reported a gain in net income of 18 per cent; for the twelve months' period net income was still slightly below last year due to rate cuts, the balance earned on the common stock being $2.46 against $2.63 last year.

Standard Gas & Electric Co. for the twelve months ended July 31st (exclusive of certain subsidiaries) reported $1.53 earned on the $4 preferred and a deficit of 86 cents per share on the common stock. No comparison is published with last year. Subsidiary reports are available for August; Philadelphia Co. in the twelve months ended with that month reported a gain in net income of about 30 per cent, and California-Oregon Power Co. a gain of about 115 per cent.

United Light & Power Co. in the twelve months ended August 31st earned 11 cents on the common A and B stocks compared with a deficit of 74 cents last year. The subsidiary, United Light & Railways Co., for the same period reported a balance for the common of about 3½ times the amount for the previous year.

Commonwealth Edison in the month of August showed a gain in net income of 40 per cent over last year; in the eight months ended August 31st $4.15 a share was earned compared with $3.95 last year.

Public Service Corporation of Northern Illinois for the month of August reported a gain in net income of over 30 per cent and for the eight months ended August 31st an increase of about 4 per cent.

Consolidated Gas, Electric Light & Power Co. of Baltimore in the twelve months ended August 31st earned $4.51 a share on the common stock against $4.21 last year; for eight months $3.05 was reported against $2.87.

Detroit Edison in the twelve months ended August 31st earned $8.61 per share against $4.60.

Edison Electric Illuminating Co. of Boston in the twelve months ended July 31st earned $8.85 a share against $9.87 last year.

Pacific Gas & Electric in the seven months ended July 31st earned $1.46 a share (as reported to the SEC). No comparison with last year was published.

The Middle West Corporation, successor to the Middle West Utilities Co. (former Insull holding company) recently issued its first report, showing consolidated net income of $199,926 for the first half of 1936. This is equivalent to 6 cents a share on the 3,310,757 shares of stock (provided for issuance in the plan of reorganization) after allowance for preferred dividend requirements of all subsidiaries (whether earned or not).

General Gas & Electric Recapitalization

General Gas & Electric Corporation, controlled by Associated Gas, plans to retire practically all its funded debt and to exchange the preferred stock (plus four years' back dividends) for $5 prior preferred stock, on which dividends would be initiated immediately. One share of the new preferred would be given in exchange for each share of the old $6 preferred, 1.1 shares for each share of old $7 preferred, and 1.2 shares for each share of $8 preferred. The old preferred stocks would not be retired, however, but would be turned over to Associated Gas in payment of indebtedness on the basis of one share with accumulated dividends (arrears amount to $22.50 to $30 on the several classes) for each $100 in debt. To the extent that the 60,000 shares of new preferred are not taken in exchange for present preferred stocks, Associated Gas & Electric Corporation will accept the new preferred to apply on indebtedness, instead of the old preferred.

At the conclusion of the exchanges

General Gas funded debt will be reduced to $909,725. Stockholders vote on the new plan October 27th, but as Associated Gas owns nearly all the corporation's debt and over 98 per cent of the voting stocks, approval seems assured.

General Gas & Electric "A" stock is currently selling around 3¼ on the New York Stock Exchange (range this year ⅞–4⅜) and the 7 per cent preferred around 66 (range 19–71). It is difficult to see how minority holders of the common stock benefit much by the new plan, although funding of the debt to Associated Gas and clearing up of back dividends is doubtless a conservative move.

Progress of the Bell System

THE Bell Telephone System is expected to have completed some $300,000,000 of refinancing by the end of 1936—nearly half of its refunding program. (Some $59,000,000 operating company obligations have also been paid off with cash.) Total savings from such refunding are estimated at about 1½ per cent or about $3,750,000 per annum. The gross reduction in interest charges, which in the case of the present financing amounts to 1¾ per cent, is partially offset by premiums on issues called for redemption and changes in maturity dates.

Refunding of operating company obligations is now largely completed except for some $47,000,000 Southern Bell Telephone 5s of 1941.

The Wall Street Journal of October 5th contained almost a full page description of the Bell System, including information obtained from the registration statement. Interesting facts gleaned from this description are the following: The Bell System, with assets of nearly five billion dollars, controls about 80 per cent of all telephones in the United States and has interchange agreements with nearly all of the 6,500 companies and 25,000 rural lines which control the remaining 20 per cent, so that the System participates in about 95 per cent of all long-distance messages in the United States.

Bell Telephone Laboratories, Inc., in 1935 expended $8,752,549 for research and development work.

Telephone toll rates were reduced September 1st for distances of over 234 miles, and various other readjustments were made. Total reductions in rates of A. T. & T. and its subsidiaries made effective to date during 1936 (the greater part since June 30th) are estimated to amount to about $23,000,000 per annum (to be partially offset by increased business resulting therefrom).

THE FCC investigation, for which Congress authorized an appropriation of $1,150,000, included intermittent public hearings during the period March 17th–June 10th, at which time they were recessed subject to call. On September 6th the FCC initiated a new investigation into rates, services, etc., but no hearings have been held thus far.

The FCC contends that rate cuts made thus far are insufficient and that further drastic cuts should be made. Carl I. Wheat, a well-known California utility rate expert, is in charge of the commission's rate inquiry. According to press reports, the new investigation may result in a "show cause" order which would throw the burden of proof on the telephone company. A complaint against the FCC's earlier activities was the fact that hearings were ex parte, with company witnesses being required to answer questions categorically and with no cross-examination permitted.

In addition to rates, it is thought the new inquiry will embrace such subjects as the 16,000 patents held by the Bell System, A. T. & T.'s activities in non-telephone services such as Electrical Research Products, Inc., etc. While the general investigation of the company's finances and accounting seems to have been side-tracked owing to lack of tangible results, the new inquiry will include some phases of the original program, such as depreciation accounting, manufacturing costs, and engineering practices.

THE present action of the FCC reflects not only the investigation authorized by special resolution of Congress but also the Federal act creating the commission, which gave it power over interstate rates. The FCC is prevented by constitutional barriers from regulating intrastate rates, but is expected to turn over to the state commissions any information of interest with respect to local regulation.

It seems probable that the new rate investigation will hinge upon the valuation problem, which has proved the stumbling block of many administrative efforts to regulate railroad and utility rates. The FCC and other Federal agencies are attempting to limit property values to a sum-total of the costs paid by the original builders of each property (regardless of increased land values or changes in dollar purchasing power). It seems likely that valuation will remain the crux of the whole rate problem and that any adverse decision by the FCC will be appealed to the courts for a "final" solution of the troublesome valuation problem. In the famous Smyth *v.* Ames decision of many years ago, the Supreme Court, while naming several value factors, gave principal stress to present cost of reproduction (less depreciation) and this has been a general guide to the courts in later litigation.

The Bell System reported a new high record for September telephone gains, amounting to 129,000 units compared with a gain of 92,100 last year. The August rise was 68,000 against 27,200. For the nine months ended September 30th the net gain was 610,300 against 298,400 last year. The September gain topped by some 30,000 the previous record month, October, 1928.

New Financing Awaits Telephone Issue

NEW financing has been somewhat light recently, possibly to avoid "clogging the calendar" pending the big Telephone issue. Utility issues in the fortnight ended October 10th included $1,116,500 Texas Hydro-Electric Corporation first "A" 6s of 1956, $7,000,000 Connecticut Light & Power Co. first and refunding Series "F" 3½s of 1966, and $7,500,000 Connecticut debenture 3½s of 1956 at 102.

The $175,000,000 American Telephone and Telegraph debenture 3½s are being offered about October 15th by a group of 47 investment and banking houses, headed by Morgan Stanley & Co., Inc. The offering of $35,000,000 Pacific Gas & Electric first 3½s by a syndicate headed by Blyth, Witter & Co. is expected to follow a few days later. Other scheduled October financing includes $13,906,900 New York State Electric & Gas Corporation 4s of 1965 (long delayed), $9,500,000 Cumberland County Power & Light Co. first mortgage bonds of 1966, $2,300,000 Montana-Dakota Utility Co. convertible debenture 4½s of 1946, and $1,500,000 New Mexico Gas Co. first 5s of 1951.

Corporate Notes

CONSOLIDATED Edison Co.'s proposed reduction in power rates has been suspended by the New York Public Service Commission pending hearings. Chairman Maltbie objected to the lower rates because consumers would have to comply with "arbitrary restrictions or conditions which have no relation to the cost of service." He thought that the reduction should be made available to all customers regardless of the use made of current for manufacturing or other purposes.

Commonwealth Edison has accepted the ruling of the Illinois Commerce Commission, which in effect reduces its rates by $3,000,000 for the ensuing year, and also prevents the company from passing along to customers the $1,500,000 Illinois utility tax of 3 per cent. The company made certain reservations in accepting the order. Chairman James Simpson stated that the decision was accepted because it recognized the new rate structure with its so-called "inducement features," which would "give the

company an opportunity to make a vigorous attempt to obtain the immediate additional business, through which alone we can replace our sorely reduced income."

Reorganization of the Rochester trolley lines of the New York State Railways, long delayed, is now expected to be completed about January 1st, by which time it is hoped to provide for a service-at-cost contract with the city of Rochester. A plan of reorganization will probably be ready for submission to the court for approval late in October.

THE Supreme Court has consented to hear arguments November 9th on the question of procedure regarding suits brought by American Water Works & Electric Co., North American Company, and other utility companies against the SEC. The question involved is whether these companies are entitled to immediate trial or whether they must await final decision in the Electric Bond & Share Case on the ground that the latter would effectively cover all issues involved. Meanwhile the SEC has filed its reply brief, in the district court in New York, in the Electric Bond Case, instituted about eleven months ago. It is asserted that the registration provisions of the Utility Act do not violate the Fifth Amendment, or involve any unconstitutional delegation of powers. The brief refers to the "gravity" of the situation which resulted in the act, and the "moderation" with which Congress acted.

Postal Telegraph's reorganization plan will probably not be completed until after January 1st or later. Sanderson & Porter, who have been engaged by the company's trustees to make a thorough report and valuation of the properties, may have tentative figures ready by the end of November. Meanwhile, Postal is reported to have been securing its share of the increase in domestic wire business and to be building up its cash position. Cable business, which normally furnishes nearly half of gross revenue, continues unsatisfactory.

Tennessee Electric Power Company has been permitted by the FPC to sell $4,728,500 first and refunding 5s of 1956 to the Commonwealth & Southern Corporation under an agreement by which the latter will re-sell the securities to the public "if and when a more favorable market may develop." The commission did not comment upon the obvious fact that TVA competition prevents successful public financing by this and other companies in TVA territory.

THE SEC has issued new forms for the permanent registration of utility holding companies, to be filed with the commission before December 1st by the 65 registered holding companies. The forms call for a detailed description of the business, including charts and tables on interlocking relationships, etc. However, the companies are allowed to incorporate "by reference" any material already filed under the Securities Act of 1933 or the Securities & Exchange Act of 1934. Information regarding interstate transmission of electricity and gas may also be omitted if it is being furnished to the Federal Power Commission. A list of the twenty largest stockholders must be furnished, also the number of holders of 1,000 shares or more, the number holding less than 1,000, and total shares held by each class.

STANDARD Gas & Electric Co. is involved in a suit brought by Simon H. Rifkind of New York, acting on behalf of certain security holders, against certain former officers and directors. It is alleged that the latter "despoiled" the company of $80,100,000,000 by the purchase and sale of utility companies, and by stock manipulations through H. M. Byllesby & Co., in the period 1921–26. One of the examples given was the sale to Standard Gas in October, 1922, of 30,000 shares of Coast Valley Gas & Electric Co. for $1,365,000, which Byllesby & Co. were alleged to have bought four days before for $845,000. Mr. Rifkind stated that these transactions came to light only last December when Standard Gas filed a registration statement with the SEC.

What Others Think

Power Pooling and Peace in the Tennessee Valley

IT can be said on excellent authority that the power pool conferences got off to a good start this week. A modest beginning has been made towards a solution of the problem of TVA's future. Sincere men representing both the government and the private utilities in the southeastern region have agreed to try to work out some plan under which TVA and the enterprises financed by private capital can live together in the Tennessee valley.

Thursday's discussions were limited entirely to the question of extending the present contract for interchange of power between Commonwealth & Southern and the TVA. Such an extension undoubtedly will be agreed upon. When this is done, power pooling as a long range project will be taken up in detail.

—BERNARD KILGORE,
Washington Correspondent for The Wall Street Journal.

IN the parleys here on which the fate of the New Deal's $110,000,000 power "yardstick" experiment, the TVA, depends, the Roosevelt administration and the private utility interests directly involved still were at loggerheads tonight.

From authoritative sources on both sides of the controversy, it was learned that no concessions have been made to the private utility groups concerned and, furthermore, that President Roosevelt has shown no willingness to deviate a hairbreadth from the original program and purposes of the TVA.

The conference today between Federal officials and representatives of Commonwealth and Southern Corporation, a holding company controlling power companies in the TVA area, broke up in late afternoon without any progress having been made toward a peace pact satisfactory to both sides. It was a continuation of yesterday's White House conference over which the President himself had presided.

—PAUL W. WARD,
Washington Correspondent for The Baltimore Sun.

ON the same day, October 1, 1936, both of the above dispatches came out of Washington and their respective conclusions—as far apart as the poles—give some indication of the sort of groping and guessing that were going on in and out of Washington on the progress made at the conferences called in Washington (starting on September 28th) by President Roosevelt for a discussion of Federal utility relations in the Tennessee valley.

Nor can it be said that the foregoing contrary interpretations were influenced in the slightest by the policy of the papers publishing them because *The Baltimore Sun,* although hardly as conservative as *The Wall Street Journal,* could scarcely be called radical or pro-government ownership, or anything of the sort. Furthermore, looking over the October 1st Washington dispatch published in the conservative arch-Republican *New York Herald-Tribune,* we find this version of the White House parley:

> Directors of the Tennessee Valley Authority and officials of the Commonwealth & Southern Corporation struggled today in the general direction of a three or four-month extension of their contract as leaders in the utilities industry pondered the result of yesterday's White House conference.
>
> From indications on the part of both government and utilities officials it was made clear that nothing tangible had been given by President Roosevelt to support the impression his political strategy ought to convey of a real rapprochement with a section of private industry. Unwilling to count too much on the President's invitation to study power pooling, the utilities chiefs concentrated on extending the TVA contract to stave off for a period of negotiation the threatened competition of government power operation in the Southeast.
>
> Louis Brandeis Wehle, New York attorney and nephew of Supreme Court Justice Louis D. Brandeis, appeared in the contract discussion as the personal representative of the President. To that extent the sway of

the TVA as sole spokesman of the government was curtailed.

The meeting, however, closed without any final agreement being reached. Mr. Wehle is expected to call the next meeting. In addition to the President's personal representative, those attending the conference today were Chairman A. E. Morgan, David Lilienthal, and James L. Fly, all of TVA; Wendell Willkie, president, and Eugene Yate, vice president of Commonwealth and Southern.

SOMETIME later this same Mr. Ward who gave such a pessimistic report of the conference to *The Baltimore Sun,* wrote in a similar, albeit somewhat more exultant, tone over his own signature in the socialistic weekly, *The Nation:*

Roosevelt still holds the fort. In the series of conferences held here in the last few days on the fate of the TVA, he has not yielded an inch to the power boys, and in consequence the power issue continues to be the one major issue on which Roosevelt has not trimmed. It is true, of course, that ample time for trimming still remains and that no one can yet be certain that the TVA will not at some future date be sold down the river, but the course of the power parleys here this past week offers little ground for such fears.

You may not have gathered this from the daily press. In fact, if you read the financial journals, you probably have just the opposite impression as to the outcome of the meetings. It is one of the amusing factors in the situation that a large section of the daily press and all the financial journals that I have seen, in attempting to play the game of the power boys, unwittingly have played the administration's game instead. They have broadcast accounts which pictured the power parleys as a peace conference and pictured the administration as on the verge of a truce with the power trust. In so doing they have pushed utility stocks upward and allayed the fears of thousands of investors whom the power trust has been laboring to keep in a state of anti-Roosevelt panic.

It is a little difficult to follow Mr. Ward's reasoning as to just how the financial journals "played the administration's game" in reporting hopefully on the power peace conferences, unless one is to infer that if utility investors were thereby calmed, they had no reason to be and are due for a sad awakening. Be that as it may, however, many, perhaps the majority, of newspaper reports published during the first week of October suggested that the White House conference gave promise of being a prelude to better relations between the Federal government and the utilities—particularly in the Tennessee valley.

NOR did all of such reports come from financial interests. Editor Raymond Moley, of *Today* magazine, for instance (hardly a power trust minion), stated his view that closer understanding and coöperation between the Federal government and the utilities in the Tennessee valley is not only advisable but absolutely necessary. He stated in part:

Even if no political campaign were in progress, the White House conference on the TVA would have been called. For the government has come to the parting of the ways in its development of public power production, transmission, and distribution in the Tennessee valley district. In three of the four great cities of that region, Knoxville, Chattanooga, and Memphis, the people have already approved the building of municipally owned distributing plants. The contracts between the TVA and the Commonwealth and Southern Company, which provide for the sale of TVA power to the private distributing companies in these cities, expire on November 3rd.

The government must now decide whether it will give or lend these cities the money for the building of the municipal distributing plants or whether it will work with private enterprise in the Tennessee valley. It must decide whether it is going to start down the long road toward the public production, transmission, and distribution of power throughout the country or whether it is going to coöperate with private companies in the power field. This circumstance makes the conference not only necessary, but profoundly significant.

THE somewhat radical League for Industrial Democracy was also considerably worried lest President Roosevelt "make peace" with the private utility industry in the TVA area or elsewhere. A statement by the league, signed by such noted progressives as Oswald Garrison Villard, Mayor Daniel W. Hoan of Milwaukee, and Professor Broadus Mitchell of Johns Hopkins University, served notice on the President that they proposed to see the "war" with the privately owned power industry to a finish—with

The Sun, Baltimore

UMPH!—YOU STILL HANGING AROUND?

his aid, if possible—without it if necessary. The statement read in part:

> Now the administration has started a series of conferences with privately owned power interests looking to the pooling of TVA power. The consumer is justified in viewing with the liveliest apprehension the possibilities of surrendering to the private monopolies hard-won gains made in the fight for cheap and abundant power.
>
> That fight has been conducted for the

most part by small groups of public-spirited, self-sacrificing citizens in widely scattered communities. It is time they pooled their common interests in a determined drive to keep the natural resources of this country out of the hands of the private monopolists, and to provide our people with the vast possibilities for more spacious living which the power age promises.

Any truce with the power trust at this stage of the campaign is a defeat for the people.

Well we do know now that at least one definite result of the White House conference was a three months' extension of the existing contract between the Commonwealth and Southern Company and the Tennessee Valley Authority which would otherwise have expired November 3rd. Under this agreement both parties will attempt to maintain the *status quo* of operations pending further negotiations on the power pool proposition.

A pretty clear description of what is involved in these negotiations was given by Editor Moley in his magazine *Today*. The requirement of the region, he says, is 325,000 horsepower—now being met by the private company. Aside from this the government now has completed a generating capacity of 200,000 horsepower, costing so far $160,000,000 in addition to the $125,000,000 previously spent at Muscle Shoals. In addition, the TVA plans future construction that will have much more capacity and will cost many more dollars. The region might reasonably absorb the 200,000 horsepower, claims Editor Moley, and if the wasteful duplication of facilities that would result from new construction of municipal distribution systems at Knoxville, Memphis, and Chattanooga can be avoided, or compromised, the situation can be made safe and sound.

It was at this point that President Roosevelt suggested an American version of the British grid system whereby public and private power is pooled. Mr. Moley stated:

The question of how fair rates are to be fixed is bound to be troublesome. Advocates of public ownership will certainly object to the placing of this power in the hands of state commissions. On the other hand, the private companies will claim that the placing of such power under Federal authority is unconstitutional. But a third possible means of fixing rates will doubtless suggest itself to the committee the President has summoned—the establishment of impartial agencies of adjudication by the terms of the contracts made between private companies and the government.

In any event, it is perfectly clear that if a pooling agreement is achieved by the President's committee, the idea of the TVA as a yardstick will be discarded, at least so far as the transmission and distribution of current are concerned. The government will still be able to claim that the TVA forced a number of justifiable reductions in rates. But as a yardstick, except in the generating of power, the TVA will be finished.

The nearest thing to a yardstick that will be left is the region in northeastern Mississippi which centers around Tupelo. The government has a complete monopoly there. Tupelo has been used as a kind of experimental area and might well continue to serve as such. But those who operate it should not expand their activities beyond that area and into competition with private enterprise. In other words, the yardstick area should be as strictly an experiment as is an experimental farm.

If the objective of those in charge of the power yardstick is to conduct a series of honest and scientific experiments, no one can reasonably quarrel with them. If their objective is to show that private ownership is undesirable, the whole project will be perverted.

Arthur Krock, writing in *The New York Times*, contributes a further interesting analysis of the difficulties to be solved in the TVA area. He stated:

The chief reason the TVA got rather out of hand was personal and internal. As a result of the crusading activities of David Lilienthal, the director in charge of the power program, the private utility business in the territory was seriously hampered and much litigation followed. The Commonwealth and Southern group, which has as good a reputation in Washington as in Wall street, found that government competition prevented the refinancing of its Georgia companies on the favorable terms its units obtained in Illinois, for example, where there was no TVA. Chairman Arthur E. Morgan of TVA was unable to control the power policy for the reason that he was in a minority of one in the board and was given a free hand only in connection with the dam and plant engineering. . . .

Two great problems confront the White

House conferees. One affects the distribution system to be arranged after setting up the grid. The other is concerned with cost-estimate formulas on which rate yardsticks are based. There will have been no point in summoning the conferees if the President intends to stand by the practices and proclamations of the TVA board majority thus far. Therefore it must be assumed that changes and concessions are in the President's mind, in which event—if they are accepted by the private power companies—he will have removed the most tangible support for the charge that his policies have unduly hampered honest industry and thereby retarded recovery.

The private companies want an integrated distribution system in the proposed government partnership, set up for a sufficient number of years to permit their refinancing. Lower costs is one of the President's objectives. The companies' chief expense items are 25 per cent to 30 per cent for labor, 25 per cent to 30 per cent for fixed charges, and 15 per cent for taxes. They assume it undesirable to attempt cuts in the labor or tax items. Therefore the fixed charges offer the only method of saving. The money market is the lowest in forty years, and the Central Illinois Light and Power Company—not being in the shadow of government competition—recently was able to cut down its fixed charges in an amount equal to half its revenues from domestic customers. If the Southern grid is arranged in such a way as not to make common carriers of the distribution lines, and further assures a long-term tryout and a fair basis of payment for plants purchased by the government (free of threats of duplication to cut down the price), similar amounts can be saved by private industry in TVA territory. The companies can then proceed to match government rates and aid in the extension of electrification and accessory use.

This cannot be done, however, in the firm view of the companies, unless the government (as represented by TVA in this instance) adopts a method of yardstick-making comparable to that of the companies themselves. They call for a yardstick made for the purpose of actual cost measure, not for the purpose of invasion. The government can arbitrarily charge an unfair proportion of cost at dams to navigation and flood control, and the rest to power. On that basis—impossible to private industry—the yardstick is one which the companies cannot match. It is well known in Washington that Chairman Morgan has been greatly dissatisfied with the TVA estimates of power cost, one of the policies that has brought the Authority into the courts.

ALTHOUGH it seems logical to argue that the President's action in summoning the private power men to conference strongly implies that he really intends to correct TVA and restore the real "partnership" of which he used to speak, there are a number of observers who refuse to believe that the President will, or even that he can peacefully settle his differences with the power industry at this point. President Roosevelt's recent warm commendation of Senator Norris, for example, might be argued obliquely as indicating that he will continue to listen sympathetically to Senator Norris' counsel on Federal power policy and Senator Norris has already let it be known that he will have none of the proposed "truce" in the Tennessee valley. Neither, in all probability, would the two Washington Senators—Bone and Schwellenbach, and others of the antiutility bloc in the Senate. Can President Roosevelt afford to drop his alliance with this bloc? Does he want to? Will he not, if reëlected, turn even more left than right? These are the numerous questions that may be settled on election day and may not be settled for months to come. Small wonder that Washington correspondents these days are writing diametrically contrary dispatches based on the same factual situation.

—E. S. B.

POWER PARLEY CONFEREES SEE NO REAL PEACE. *New York Herald-Tribune.* October 2, 1936.

WASHINGTON WEEKLY. By Paul W. Ward. *The Nation.* October 10, 1936.

THE ABC OF THE TVA. Editorial. By Raymond Moley. *Today.* October 3, 1936.

STATEMENT. League for Industrial Democracy. *The Baltimore Sun.* October 5, 1936.

IN THE NATION. By Arthur Krock. *The New York Times.* September 22, 1936.

The Possibilities of Propaganda

It is a comparatively rare event for prominent people to defend propaganda these days. This is, of course, a silly and ostrich-like attitude because propaganda is like the weather and, as the old saying goes, "We will have weather, whether or not." So it is that even the most smug reformer must accept propaganda—or else. Most people who have thought about this seriously realize that it is so but the mere word "propaganda" has been saddled with such an insidious connotation that most of us apply it only to the other fellow's propaganda and let it go at that.

More forthright was the nationally known public relations expert, Edward L. Bernays, in his address at the recent Institute of Public Affairs, held under the auspices of the University of Virginia. He opened up with this sally:

> Propaganda is the voice of the people in the democracy of today. Freedom of propaganda is as important as the other civil liberties—freedom of worship, freedom of the press, freedom of speech, freedom of radio, and freedom of assembly. The use of propaganda provides, for the people, an open forum for the conflict of ideas and for the competition of the market place, which are integral parts of our present-day system. Propaganda offers everyone a free choice as to the basis of the course of action to be pursued. With only one kind of propaganda, only one kind of special pleading, we are left in the position of the individuals in a Fascist or Communist state, who have no free choice, and who must accept the edict of those who are in power.
>
> Propaganda is an important tool of sound social evolution and change. Propaganda makes it possible for minority ideas to become effective more quickly. This extends over into other fields as well—political, economic, industrial. The industrial product of science and invention, of laboratory and workshop, penetrates the inertia of the public and is accepted by the public more quickly as the result of propaganda.

Mr. Bernays argues that the acceptance of the automobile, radio, the X-ray, and, of course, utility services has all been accelerated by propaganda. He added:

> Propaganda is applied psychology. Propaganda is an attempt to give currency to an idea by finding the common denominator between the idea and the public interest, and stating it. It is bringing an old or a new idea to acceptance by the public. Leaders recognize that in a democracy life is a conflict, a competition of symbols for the good will of the public. The methods of propaganda are readily available to all forces in society that wish to effect change or to maintain the *status quo*. That is why it is particularly vital that they be employed for sound social purposes, since propaganda is a powerful weapon that can be abused as well as used constructively. That is why, it seems to me, men and women who are interested in their civilization should have a thorough knowledge of the scope of propaganda, its functions, and its limitations.

After giving a number of specific instances in covering woman's suffrage, peace, war, christianity, social research, and medical service, he pointed out that one simply cannot escape propaganda. Walk down the street but one block and you are assailed through all your senses by propaganda which consciously or subconsciously affects your judgment. Mr. Bernays points out:

> A similar battle of propaganda is carried on so that you may decide on the clothes you wear. Your choice of underwear—cotton, silk, or rayon—may spell success or failure to one or another of these industries. Shirts of silk (from Japan or from Italy) compete with cotton shirts, imported or domestic. Light felt hats fight for favor against panama and straw hats from Central America. Neckwear of silk or cotton, wool or rayon, compete against each other, and lightweight suits of a dozen materials and styles fight for acceptance against the traditional heavier men's clothing.
>
> What, you may ask, can be the rationalization of these propagandas? Namely this —that as interest and attention are focused on these battles, disinterested authority will align itself on the basis of merit with one side or another, and the presumption is that that side will win in public favor which is in the public interest and at the same time satisfies the private profit motive that is at the basis of our present system.

Sharing Mr. Bernay's opinion that propaganda is omnipresent and inevitable, Dr. Harold D. Lasswell, professor of political science of the University of Chicago, urged the necessity for

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JOB FOR THE JANITOR

reasonable regulation but absolute freedom for propaganda. He made the following statement:

> A sound program on democratic defense requires the circulating of sound propaganda through the principal channels of circulation, whether publicly or privately owned and operated. It is only by making the middle income skill groups more effective that any legal or extra-legal requirements will be made to work for the safety of democracy. If necessary rival circuits can be organized to reach the public; if necessary pressure

can be put on government to keep open the channels of favorable publicity.

It is proper to repeat that the effect of propaganda on democracy depends upon the results which are fostered by propaganda. Certain policies tend to strengthen democracy; certain policies tend to weaken democracy. When propaganda is used to remove the causes of insecurity, propaganda is an ally of democracy; when propaganda is used to perpetuate the causes of insecurity, propaganda is an enemy of democracy. A major cause of insecurity is the concentration of economic control, and the defense of democracy requires the dispersion of economic control by arousing the middle income skill groups to greater activity.

Maybe if we were all to admit that propaganda is as inescapable as the atmosphere we breathe, this innocent term would lose the force of opprobrium with which we have endowed it.

—F. X. W.

THE CONSTRUCTIVE FORMING OF PUBLIC OPINION. Address by Edward L. Bernays. Institute of Public Affairs, University of Virginia, Charlottesville, Va., July 16, 1936.

PROPAGANDA AND DEMOCRACY. Address by Dr. Harold D. Lasswell. Institute of Public Affairs, University of Virginia, Charlottesville, Va., July 16, 1936.

The Capitalistic "Middle Way"

SAMUEL S. Wyer, noted consulting engineer of Columbus, Ohio, and well known for his activity in the field of power (in the broader sense) economics, is the author of a recent book that might be called the capitalistic version of Marquis Child's recent volume on Sweden's "middle way."

As usual with writers on economic subjects, Mr. Childs sees America today at the "crossroads." Poor America! She never seems to be able to get away from the crossroads. Veblen had her there before the war. Beard had her there after the war. Stuart Chase has had her there continuously for the last ten years, and now comes Wyer with the same news. Slightly original, however, is Wyer's view that there are three forks in the road rather than a mere Right and Left:

First. We can muddle through under our present limitations and stay comparatively comfortable.

Second. We can smash the present system (and take either the Right or Left road from there on).

Third. We can "detour by way of social reconstruction through constitutional means to a new order of plenty for all" (if this seems a bit vague, you'll just have to read Mr. Wyer's book; that is what it is all about).

However, Mr. Wyer lets it be definitely known that he believes in capitalism and thinks that we in America can best be saved by and through "enlightened" capitalism. Here are the main points in Mr. Wyer's book, handily epitomized on its jacket:

1. How we got into today's economic muddle.
2. How the use of mineral energy sources has transformed the modern world.
3. How transportation has changed us from a nation of individuals with individual rights to a nation of interdependent groups.
4. How to make the farmers prosperous and through them 45 per cent of our population.
5. How to solve the basic problems involved in using and controlling our water supply.
6. Government ownership not the way out.
7. The fundamentals of the various proposed systems for living together.
8. What we must do to get a social order of plenty for all who are willing to work.

THE most interesting aspect of Mr. Wyer's volume seems to be the manner in which he has simplified the salient factors covering the background and development of our natural resources and industrials, and how they fuse into the modern economic picture. Aided by charts and illustrations, he has done this in a manner that makes the picture at least clear to the average lay reader. Surprisingly enough, the reader is not conscious of spoon-feeding or predigested, "written down," oversim-

plification. The narrative is entertaining and stimulating.

Once the picture is presented, however, this reader was rather confused about just what Mr. Wyer wants us to do about it all. Take the subject of electricity—a matter of special interest to FORTNIGHTLY readers. Mr. Wyer develops the subject well and points out the various cost factors that enter into the scene, such as Generation *v.* Distribution, Domestic Use *v.* Industrial Use, etc. Here is a sample skilful passage:

> The public has been bombarded so long by political electric power promises that a distorted public point of view has been created. The public, for its own protection, needs to look at the problem in terms of facts and not of political promises. The relative significance of domestic power cost in the United States is shown . . . (chart). This shows a national income of 47.6 billion dollars; the cost of government, 21.2 billion dollars; tax collections, 8.75 billion dollars; and domestic electric cost, .675 billion dollars. This shows that the annual cost of government of 21.2 billion dollars is 31 times as important as the annual domestic power cost of .675 billion dollars. The politicians are continually stressing what they hope to do with electric power, but are silent and indifferent with regard to the taxpayers' burden in the cost of government.

Here is the balancing passage:

> The reason the politicians have been able to make such headway in hammering the electric-power industry is that the industry was so careless with regard to its own state of affairs that it permitted the development of the following vulnerable areas:
>
> 1. Abuse of holding company privileges, often making the holding companies mere playthings for speculators, resulting in a capitalization of about 12.5 billion dollars on property that is worth not more than 9 billion, thereby producing 3.5 billion of water in the financial structure. The public is very rightly insisting that this water be squeezed out.
>
> 2. Although many domestic electric rates in the United States are fair, considering the cost of the service, the industry has permitted the continuance of unusually high rates in certain communities and by so doing made itself a political target.

All of which may lead the busy and somewhat cynical Man on the Street to exclaim, "So what!"

WELL, it will all come out all right, says Mr. Wyer, if we plan to get along together. The platitudinous generalities of Mr. Wyer's "New Decalog for Human Welfare," while as irrefutable as the Golden Rule, may strike some as reminiscent of that Great Fraternity —The Mystic Knights of the Sea.

Specifically, the author would set up a National Planning Council to act in the triple capacity of regulating, investigating, and advising all forms of American business. A constitutional amendment would accomplish this but the problem seems legally more complicated by the fact that "all acts of such council or its employees are to be reviewable by United States courts." Reviewable for what? By what standards of legality could this body's deeds be measured after its original powers were once rooted into the Constitution itself?

All this is not to suggest that Mr. Wyer's work is not worth the reading. Quite the contrary; it is because of his Atlas-like courage in taking the economic problems of the United State on his shoulders that the author challenges his reader's views and in the process liberally educates the latter with a stimulating thumb-nail sketch of the whole map of American economics.

—E. S. B.

LIVING TOGETHER IN A POWER AGE. By Samuel S. Wyer. Association Press. New York City. Price $2.50.

¶ "AT *a time when the private electrical utilities are doing their darnedest to block the New Deal power program and when Ickes and company are denouncing the utility magnates and the President advances the TVA yardstick, inch by inch, the lion lay down with the lamb and presented a solid front to the visiting firemen from foreign shores.*"

—JAY FRANKLIN
Newspaper columnist.

The March of Events

TVA–Utility Pact Extended

PAVING the way for possible creation of an electric power pool in the Southeast, the Tennessee Valley Authority and the Commonwealth and Southern Corporation on October 10th announced agreement to extend for three months their contract for sale of TVA power to the private company. Officials of the two organizations, along with representatives of other Federal and private power interests, initiated the study of the power-pooling idea late in September at a White House conference. The contract would have expired November 3rd.

During the 3-month period, the contracting parties agreed to make no efforts to solicit customers in territory now served by the other. In addition, the Commonwealth and Southern agreed to sign no contracts for service for a period longer than one year "in the general vicinity of the Authority operation." Another change affected the amount of power TVA might sell to other customers besides Commonwealth and Southern.

Disagrees with President

CHARLES W. Kellogg, president of the Edison Electric Institute, in a statement issued last month disagreed with the statement of President Roosevelt, made at the World Power Conference, that the 25-year-old observation of the late Charles P. Steinmetz concerning the cost and use of electricity "still holds true." Mr. Kellogg said:

"In addressing the Third World Power Conference in Washington on September 11th, the President quoted an observation made years ago by Charles P. Steinmetz to the effect that 'Electricity is expensive because it is not widely used and it is not widely used because it is expensive.' The President added: 'that observation still holds true.'

"The facts are as follows: Steinmetz's observation was made in 1911 (in a lecture to students of the New York Electrical School). In that year the average annual energy consumption per residence customer in the United States was less than 260 kilowatt hours and the average price paid by residential consumers was 9.43 cents per kilowatt hour.

"For the twelve months ending July 31, 1936, the average annual residential energy consumption had risen to 701 kilowatt hours, an increase of 170 per cent over the time when Steinmetz made his comment and the average residential rate had dropped to 4.84 cents. . . .

"Perhaps the best proof that the conditions cited by Steinmetz no longer exist is found in the voluntary action of the American people in the premises. During the last four years (with the last third of 1936 estimated) 6,000,000 electric refrigerators have been purchased in this country. This is in direct competition with the ice box so that no monopoly was involved in this great movement, merely the individual conviction in each case that at the rates available the electric way was the best and most economical.

"In view of these results, which could be amplified by many other figures, the electric industry feels that it has long ago effectively broken the 'vicious circle' which Steinmetz described in 1911."

Oppose Power Truce

FEARING a truce between the Federal government and the hydroelectric power industry as a result of the recent conferences held in Washington, representatives of consumers and of workers in the power industry on October 4th issued a call for a self-protection conference to be held at Washington early in January.

Initiative in summoning the conference was taken by the League for Industrial Democracy. Included among the signers of the call was Broadus Mitchell, associate professor of political economy at Johns Hopkins University, Baltimore. Daniel W. Hoan, Socialist mayor of Milwaukee, Wis., and Oswald Garrison Villard, New York journalist, also were signers.

FPA Approves Plan for Coöperation

CLOSE coöperation between Federal and state regulatory commissions was provided for in a plan of coöperative procedure in matters and cases under the provisions of § 209 of the Federal Power Act which was approved last month by the Federal Power Commission, and also by the committee on coöperation with Federal commissions of the National Association of Railroad and Utilities Commissioners, for recommendation to commissions represented in the association's membership.

Outlining procedure governing joint conferences, joint hearings, or special boards which may consider matters of mutual interest, the plan was said to provide for the better utilization of the facilities of Federal and state commissions in the regulation of electric utility companies engaged in interstate commerce.

The Federal Power Commission now has four regional offices in operation, located in Denver, Colo., New York, N. Y., Atlanta, Ga., and San Francisco, Cal. The fifth and last of the regional offices, to be located in Chicago, will be opened, it is expected, on or before December 1, 1936.

"In establishing these regional offices," Chairman Frank R. McNinch said, "necessitated by the increased duties imposed upon the commission by the Federal Power Act, the commission is also enabled to work in closer coöperation with the states and state regulatory agencies in those affairs in which the state and Federal governments have a mutual interest, and also with the regional engineering offices of coöperating Federal agencies."

Arizona

PWA Approves Project

A Public Works Administration project for $350,000 for the construction of a municipal light plant in the city of Globe was approved by all sections of the power division and by the national director of PWA, it was announced last month by W. A. Sullivan, mayor. The next step in the process was the allotment of funds for the plant by President Roosevelt, who, it was explained, rarely turns down a project recommended by department heads.

Before the allotment is made by the President, however, it is necessary for an election to be held by the real property owners of the city of Globe on whether they desire to issue revenue bonds for this purpose or not.

Arkansas

Free Public Phones Prohibited

THE Arkansas public utilities commission held invalid recently a Fort Smith ordinance preventing the Southwestern Bell Telephone Company from installing coin telephones in semi-public places, and directed that the company enforce throughout the state the section of its rate schedule prohibiting the placing of flat rate telephones in public and semi-public places.

Semi-public places were defined as stores, restaurants, cafés, barber shops, filling stations, and other places frequented by the general public for the purpose of trade.

The order to enforce the "no free service" rule uniformly and impartially will affect about 80 cities and towns, including Little Rock, and the expected increase in operating revenue will be taken into consideration in determining whether a reduction in rates is justified at the conclusion of a general rate investigation which is now in progress, it was said.

Illinois

Orders Rural Lines Built

THE state commerce commission on October 8th ordered the Central Illinois Public Service Company to construct electric lines to serve rural residents of several counties.

The order provided, commission officials said, that the company would spend $150 on construction for each $3 monthly minimum charge for each customer and $200 construction for each $5 monthly minimum charge. The order was described as "experimental" and to be effective for one year, unless extended.

Farmers of several counties had charged the company forced them to build lines to secure electric service and then demanded title to the lines.

Enters Reduction Order

THE Illinois Commerce Commission last month entered an order in the case of the Commonwealth Edison Company, effecting a $3,000,000 reduction in the cost of electricity to the people of Chicago. It also dismissed the application of the company to increase its rates by the amount of the 3 per cent tax. It was estimated the saving to residential users of electricity would average 8 per cent, and including the savings in the 3 per cent tax would amount to 11 per cent.

The action of the commission was said to be in line with the policy laid down by Governor Horner at the inception of his administration that public utility rates in Illinois must be decreased wherever possible.

Electric Rates to Be Slashed

THE Illinois Commerce Commission recently approved an order for a reduction of electric rates by the Illinois Power & Light Corporation, applying to residential, business, and large power users in the 262 cities and towns served by the company.

The new rates, effective October 1st, provide for a saving of $120,000 annually to patrons of the company. The rates reduce former bills 4.4 per cent, but customers before paying the minimum charge of $1 do not receive a reduction.

The reduction is in line with the rate reduction program of the Illinois Power & Light Corporation, which has been in effect for two years. Other similar reductions in other cities and towns served by the company are in prospect.

Indiana

Gas Rates Reduced

NEW rate schedules, designed to reduce the cost of gas in Indianapolis, but still too high to make it comparable with those of cities using natural gas, according to critics of the city plant, were announced recently by the Citizens Gas and Coke Utility.

The new rates, a general drop of 5 cents a thousand cubic feet, also included a rearrangement of the steps to lower rates for quantity consumption, which is regarded as of more importance than the 5-cent reduction in price.

This reduction, the second since the utilities district acquired the gas plant from the Citizens Gas Company, is estimated to provide a saving to Indianapolis consumers of enough to make a total savings, since the gas plant was acquired, of approximately $400,000 a year.

Iowa

Gas, Electricity Rate Cuts Proposed

GAS and electricity rate reductions of from 5 per cent upward to all retail users of both products are provided for in proposed ordinances, resulting from a series of conferences between city officials and the Des Moines Electric Light Co. and the Des Moines Gas Co., which were given first reading early in October by the Des Moines city council.

According to the mayor, the total annual reductions in rates for both gas and electricity, to become effective from the first meter readings after October 1st, would be $161,000, of which $47,300 would be in gas rates. Cuts in minimum monthly bills of from 75 cents to 65 cents for electricity and from $1 to 80 cents for gas are provided for in the ordinances.

In addition, the gas rate ordinance contains a change from the present discount system for prompt payment and provides for an increased B.T.U. content, which, incidentally, will have no effect on the monthly gas bill.

Power Ruling Upheld

A DECISION upholding the Iowa City (Ia.) Power and Light Company in its legal battle over natural gas with the Iowa City council was rendered recently by Federal District Judge Charles A. Dewey.

Judge Dewey, overruling objections of the city to the special master's report, recommended that the city be enjoined from interfering with installation of natural gas in Iowa City by the utility and that a recent gas rate ordinance passed by the Iowa City council be voided.

Kentucky

Continues Rate Attack

MAYOR Neville Miller of Louisville last month told members of leading agricultural organizations that their fight against the 10-cent interexchange telephone toll, effective November 1st, would have to be waged alone. The city, however, was to make available to the groups data helpful in the fight.

The city has opposed the toll charges from the first. It has sought to obtain a 25 per cent cut in rates in Louisville and was said to be laying plans for an attempt to bring about an additional cut because it was not satisfied with the 12.75 per cent reduction ordered by the state commission.

Principal opposition, however, came from small cities and counties where the rate level

was generally reduced but the schedule revised so as to eliminate free interexchange in several areas where it had previously been enjoyed. The commission's action was based on regulatory precedent to the effect that broad interexchange areas, free of toll charges, resulted in discrimination between classes of subscribers.

Richmond and Madison county officials served notice that they intended to fight the new toll system, while a number of commercial organizations engaged in rural business were reported joining the opposition.

Accepts Lower Phone Rates

THE Kentucky Public Service Commission accepted recently a new schedule of lower telephone rates proposed by the Southern Bell Telephone Company, affecting all but four of the company's 138 exchanges in the state. Company officials declared the reduction would save subscribers $516,351 annually.

The action ended a rate controversy that began January 30, 1936, when the commission undertook a statewide survey of the Southern Bell Company's charges.

Louisiana

Company Loses Point

THE Southern Bell Telephone and Telegraph Company last month lost before the state supreme court a point in its legal battle to restore telephone rates which were reduced more than eighteen months ago by the state public service commission in a statewide order.

The telephone company was seeking the dismissal of a suspensive appeal granted the public service commission by a lower court or in the alternative a change of the suspensive appeal to a devolutive appeal which would have had the effect of restoring the former rates of the telephone company. As a result of the supreme court's action, the state commission's order which reduced rates an average of $1 on each telephone will remain in effect at least until early 1937.

Counsel for the telephone company contended that the public service commission's order was unreasonable and confiscatory, and that it resulted in an annual loss of approximately $660,000 to the company. Denying that the company had suffered a loss in revenues as the result of the order, attorneys for the state commission contended instead that the business of the telephone company had shown a sharp increase since the order went into effect.

Maine

Plans for Quoddy

HOWARD O. Carroll of the National Youth Administration announced last month that 1,500 youths, sixteen to twenty-five years, from all parts of New England would be quartered at Passamaquoddy and would be taught trades for which they seem best fitted. The Quoddy work, Mr. Carroll explained, is outside of the NYA work in Maine and will in no way conflict with advantages offered the youth of this state. Enrollment for Quoddy was being handled through the national headquarters for New England, it was said.

Michigan

Fights Power Plan

UNQUALIFIED opposition to the Federal Power Commission's plan of dividing the United States into regional districts was expressed by the Michigan Public Utilities Commission on October 12th in a letter to the Federal agency.

Intended to "assure an abundant supply of electric energy throughout the United States with the greatest possible economy and with regard to the proper utilization and conservation of natural resources," the plan, according to the state commission, would harm, rather than help, Michigan ratepayers.

The commission stated in its letter that the average domestic rate in Michigan "now is lower than that enjoyed by the people of any other state. In Michigan upwards of 85 per cent of all electrical energy is manufactured by steam plants, this state not being blessed with the large water-power resources enjoyed by many of the states wherein the average domestic rate is far above the Michigan level."

Only three Michigan power companies now transmit power across the state border, the

commission stated, and these are companies which serve only a small portion of Michigan. The commission concluded:

When one considers the fact that the rates prevailing in the surrounding states are higher than those in Michigan, that Michigan needs no more electrical energy from without the state than it is now receiving, that Michigan utilities have not wasted large amounts of private or public funds in the construction of useless excess generating capacity, and therefore have no surplus power to dump into other states, it is certainly clear that any scheme to increase the interstate transmission of power between Michigan and other states can result only in financial injury to Michigan ratepayers.

Expects Gas Rate Cut

THE Detroit City Gas Company has increased its sales so considerably since the introduction of natural gas in Detroit, it was announced last month, that the company probably will be able to lower its rates at an early date.

When the company switched to natural gas it announced a "temporary minimum payment plan." Under this plan consumers pay, temporarily, the same amount for natural gas that they paid during the same month last year for artificial gas. They may use a larger amount of gas at no more than they paid a year ago, but if they use less cubic feet of gas than they used last November they will be billed the same amount they paid last November.

Mr. Frank P. Fisher, the city's gas expert, told the city council that this temporary minimum payment plan would be dropped as soon as the increased sales of natural gas were sufficient to provide the revenues required during the development period. He stated that at the rate at which new heating customers were being added to the company's line daily, the outlook was for a very early dropping of the minimum payment feature.

Mississippi

Cuts Phone Rates

TELEPHONE rate reductions submitted by the Southern Bell Telephone Company and approved by the state railroad commission last month represented a savings of approximately $40,000 a year to subscribers in eighteen Mississippi municipalities, according to an estimate made by the officials of the telephone company.

New toll rates became effective November 1st, while reductions in local exchange service, hand-set rentals, and service connection charges took effect on billing dates on and after October 6th, date of the commission's order approving the reductions.

Missouri

Residents Vote Franchise

RESIDENTS of Pasadena Park, St. Louis county, voted in a special election on October 6th to grant a 20-year franchise to the St. Louis County Water Company. The vote was 160 to 0.

Under provisions of the franchise, the company will make a minimum quarterly charge of $3 per 1,320 cubic feet of water and 17 cents for each 100 cubic feet above the minimum, as compared with the old quarterly charge of $3 per 900 cubic feet and 23 cents for each 100 cubic feet above the consumption allowed under the minimum charge.

It was estimated that the new rates would reduce average yearly bills by about 33 per cent.

Nebraska

Question Proposed Electric Rate

AN electric light rate schedule proposed by the recently organized public ownership league in Lincoln, together with a referendum threat, was returned recently by the commissioner to whom it was originally referred, with the comment that "such a rate would seriously threaten existence of our municipal light plant." The matter has been returned to the city council for consideration.

The schedule is reported to be based on conclusions of some of the best engineers in the country and would provide for a wholesale rate for rural electrification consisting of 1¼ cents for the first 10,000 kilowatt hours per

month, 1 cent for the next, 9 mills for the third, and 7½ mills for all in excess.

Adopt Flat Current Rate

DIRECTORS of the Loud river public power district recently adopted a flat rate of 1.1 cents per kilowatt hour as the price of wholesale electric current to be sold to rural power districts.

The action was taken on recommendation of the district's committee on sale and distribution after a request was received from the rural electrification administration that a definite wholesale price for current to the rural districts be established. Loans are made by the NRA to finance the rural districts' distribution systems.

The rate, however, the directors said, will be subject to a revision downward when and if the district has more income than is needed for its operations. The state enabling act provides that districts organized under it must pass excess earnings back to customers in the form of lower rates.

Gas Rates Cut

DIRECTORS of the Omaha Metropolitan Utilities District voted a reduction last month, effective January 1st, of 5 cents per thousand cubic feet of gas, which was estimated to save consumers about $110,000 a year.

The reduction, directors pointed out, was made possible through savings effected by use of natural gas in the manufacture of artificial gas. The district renewed a contract for twelve months for purchase of natural gas from the Northern Natural Gas Company. Directors said use of natural gas reduced the manufacturing costs by about $74,000 a year.

New York

Questions Proposed Cut

THE merit of an 11 per cent cut in rates for electricity supplied to manufacturers was questioned last month by Milo R. Maltbie, chairman of the state public service commission, at a public hearing on the application of the electric companies of the Consolidated Edison Company, Inc., to make such rates effective.

The commission recently suspended schedules filed by the companies containing the proposed rate cuts, which were estimated to save about $513,000 annually for manufacturers. In the opinion recommending the suspension, Mr. Maltbie declared that the new schedules were conditioned upon arbitrary restrictions which had no relation to the cost of service.

Floyd L. Carlisle, chairman of the board of the Consolidated Company, testified in support of the company's application, defending the proposed new schedules against sharp questioning by Mr. Maltbie and spokesmen for opposition groups, including the city.

Mr. Maltbie repeatedly interrupted Mr. Carlisle's testimony with questions concerning the possibility of extending further rate cuts to general and residential consumers of electricity, it was reported. Mr. Carlisle declared that reductions aggregating $24,000,000 had been made in various service classifications since 1930.

Balks Power Plan

ANOTHER effort by Mayor La Guardia of New York city to establish a $400,000 municipal electric power plant as a WPA project in Brooklyn was balked on October 13th by the board of estimate and apportionment.

The mayor's resolution calling for a vote of the board was amended by a motion of Comptroller Frank J. Taylor to refer the matter to a committee of the whole. Mayor La Guardia's proposal called for immediate acceptance of a Federal grant of 45 per cent of the cost of erecting the structure as an adjunct to Brooklyn College. He said that erection of the plant would save the city $11,000 a year.

North Dakota

Approves New Rate Schedule

THE North Dakota railroad commission last month made permanent its new telephone rates placed in effect in the city of Minot July 1st. It was estimated the new rates would save subscribers of the Minot exchange, owned by the Northern States Power Company, a total of $11,326 a year, as compared with former rates.

The commission announced its schedule of new rates for Minot last June, and the new schedule was placed into effect by the company.

Ohio

Company Denies Breaking Faith

REPLYING to published reports concerning the recent action of the city of Toledo in repealing (the day after it was enacted) a recent power rate contract with the Toledo Edison Company, company officials specifically denied the statement that the reduction under the published contract would have amounted to only 3 per cent. It was estimated that the reductions proposed would have amounted to approximately 11 per cent.

The company also denied allegations that it had broken faith with the city by canceling a general rate decrease pending negotiations. It was pointed out that the company had already billed the city for electric power service under the new general power rate for two consecutive months before the contract in question was canceled.

However, James W. Huffman, co-counsel for the city and a former member of the state utilities commission, said that "the journal entry is tantamount to a formal order."

Freeman T. Eagleson, co-counsel for the company, subsequently launched a bitter attack upon the legality of the commission's action branding the company's plans as "unauthorized and unlawful." Referring to the commission's journal entry, he stated:

"In the expression of the commission, no designation is given as to it being an order. It certainly is not an order in any respect. It is not a finding of fact because no suggestion of finding of fact is intimated in this expression. The commission doesn't even intimate that it has any authority to issue what would even purport to be an order requiring the respondents to continue to charge not to exceed 48 cents until the commission shall have ascertained and determined what the reasonable rate should be."

Brands Attempted Hike

EFFORTS of the Ohio Fuel Gas Company, successors to the Federal Gas and Fuel Company, to collect the 55-cent rate from more than 20,000 Federal customers were branded as "unauthorized and unlawful" by the state utilities commission last month. The position of the commission was disclosed in a formal journal entry signed by Roy D. Williams and Charles F. Schaber, members of the commission, while its chairman, E. J. Hopple, did not participate.

While the commission failed to issue any formal order to the Ohio Fuel Gas Company, restraining the company from its intention to collect the 55-cent rate from Federal customers, beginning September 15th, the members of the commission intimated it was their belief no formal order would be necessary unless the company proceeded in its plans to collect the 7-cent increase, in which case the matter would probably be referred to the attorney general for possible mandamus in a court of competent jurisdiction.

Denies Phone Rehearing

APPLICATION of the Ohio Bell Telephone Company for rehearing of the statewide rate case was denied by the Ohio Supreme Court last month. At Cleveland, Randolph Eide, Bell Company president, announced the ruling meant that "obviously we will perfect as speedily as possible an appeal to the United States Supreme Court."

The state supreme court several months ago upheld the findings of the state utilities commission, directing a reduction of rates, and ordering refunds to subscribers amounting to between $11,000,000 and $13,000,000, which the commission held was collected in excess of the proper rates.

The application for a rehearing of the case was filed by the company immediately after the court decision several months ago, and contended that the court had failed to consider the testimony on which the commission based its findings. The overruling of a motion for a rehearing was said to be just another step in the 15-year-old telephone rate litigation.

South Carolina

To Hear Appeal

ACCORDING to recent press reports, the United States Supreme Court will hear the Duke Power Company's appeal in the Buzzard Roost case November 9th instead of October 19th, as originally planned. Counsel for Greenwood county said Solicitor General Stanley Reid had notified them of the change.

Senator W. M. Nicholson, a member of the county's counsel, said he and D. W. Robinson of Columbia had filed briefs opposing what they said was a move of the power company attorneys to tie in the case with pending TVA litigation. The Duke Power Company appealed from a circuit court of appeals decision holding the PWA-sponsored Buzzard Roost project was constitutional.

Tennessee

Utility Charges "Coercion"

CONSPIRACY and coercion on the part of officials of the Public Works Administration and the Tennessee Valley Authority to compel Tennessee and Alabama state and municipal officers to buy TVA electric current was charged in a suit filed in the Federal district court on October 13th by the West Tennessee Power and Light Company, whose main offices are in Jackson, Tenn.

The power company was seeking an injunction restraining the PWA from allocating $663,000, of which $299,000 was said to be an outright grant to Jackson for construction of a distribution system to handle TVA current over a transmission line already erected. Such an allocation, the plaintiff said, would virtually destroy its $1,500,000 plant investment in Jackson.

Justice Joseph W. Cox signed a 10-day restraining order, enjoining PWA disbursement of the funds. Lawyers said they would file a motion for a preliminary injunction, effective until the case was tried on its merits.

The suit asserted that not only was the proposed allocation unconstitutional under the Fifth Amendment of the Constitution, but it was not in accordance with the purpose of the PWA. Work relief intentions would not be fulfilled, it was declared, because the skilled labor the project would require was not available in the vicinity, and the electricity would not be surplus current from the Wilson dam plant, but would be manufactured current generated in steam-driven plants.

Vote TVA Bonds

THE city of Fayetteville is on record now in favor of the issuance of $150,000 worth of bonds for construction of a municipal power distribution system or purchase of the present system owned by the Tennessee Electric Power Company.

Voters approved the bond issue in an election, October 1st, by a vote of 558 to 57.

Lincoln county, of which Fayetteville is the seat, already has Tennessee Valley Authority power in a rural electrification loop.

Wisconsin

May Succeed Reis

SAMUEL Becker, chief counsel for the Federal Communications Commission in its far-flung investigation of the American Telephone and Telegraph Company, was reported last month by the *Wisconsin State Journal* to be a likely successor to Alvin C. Reis as chief counsel for the state public service commission. Formal selection of Becker would not be made until after the election, it was stated, and then only if Governor La Follette were reëlected. Mr. Becker has appeared for the state commission in special cases.

The vacancy was created by Reis' resignation to become circuit judge. If Mr. Becker receives the appointment, it was said he would be one of the youngest men to occupy the important post.

Lower Rates Ordered for Coöps

THE Wisconsin Public Service Commission recently ordered the Northern States Power Co. and Wisconsin Power and Light Co. to file wholesale electric rates for coöperatives which are 20 per cent lower than present Northern States rates to municipal utilities and 8 per cent lower than present Power and Light wholesale rates to municipal plants.

The commission also told Power and Light to reduce its present wholesale rates to municipal plants 8 per cent and indicated that when a general rate investigation of Northern States is completed, a reduction in its wholesale rates to municipal plants may be expected.

Both companies had revealed their willingness to serve coöperatives. Power and Light said it would serve any coöp in its area at its standard wholesale rate to municipals, while Northern States had offered one coöperative a rate schedule somewhat lower than its usual rate to municipals, the commission stated.

Commission States Position

THE state public service commission in an informal communication to the mayor of Madison last month stated its position on the subject of municipal plant profits.

The commission's policy, it was said, permits any municipal plant to earn a fair profit on its fair value for its owners just as any privately owned utility does. A fair profit has been held to be 6 per cent for electric utilities and 5.5 per cent for water utilities.

The commission explained that it only seeks to prevent excessive earnings by either municipal or privately owned utilities because it believes all utility customers, regardless of whether they are served by a municipal or a private plant, are entitled to the benefits of state regulaton.

The Latest Utility Rulings

Property Sale Involving Impairment of Liquid Assets Not in the Public Interest

BOTH the Federal Power Commission and the Pennsylvania commission disapproved a sale of the property and franchises of the Northern Pennsylvania Power Company to the Metropolitan Edison Company, on the ground that the transaction would not be in the public interest.

Both corporations are subsidiaries of a holding company and the net result, as stated by the Federal Power Commission, would be a withdrawal by the holding company of cash and securities from the liquid assets of an operating subsidiary without commensurate benefits to such subsidiary. The Metropolitan Edison Company proposed to pay to the Northern Pennsylvania Power Company cash and securities for its property. The Federal Power Commission said in part:

> If the transaction were completed, NY PA NJ Utilities Company would own and control through one subsidiary, instead of two, precisely the same operating properties that it owned and controlled before and it would be entitled to the same total profits realized therefrom. The transaction cannot be dealt with upon the same basis as if the applicants were independent companies, and this commission's duty in the present circumstances goes beyond a scrutiny to determine mere fairness of price and effect upon efficiency and economy in operations.
>
> Stripping the transaction of surface fictions and looking to the parties actually interested therein, the commission readily identifies the real purchaser and real seller as NY PA NJ Utilities Company and recognizes the fact that this transaction will result in a transfer of current assets from a subsidiary to a parent company without the necessary compensating benefits to the former which the public interest demands.

The Pennsylvania commission, unlike the Federal Power Commission, went into additional questions, such as the adequacy of the purchase price. The purchase price was held to be excessive. As to economies which would result, the Pennsylvania commission said:

> We are constrained to say the combined effect of these economies would not be material and, in the last analysis, would have virtually no effect upon rates to consumers, so that these benefits would not accrue to the ratepayer.

The state commission observed that the movements of property and cash and securities were unnecessary for the purpose of effecting a consolidation and constituted an unnecessary draining by the holding company of the current assets of the subsidiary. It was said that a consolidation might well be effected by the exchange of the stock of Northern Company with common stock of Metropolitan Company. Under such plan the holding company would remain the equitable owner of both companies, cash and securities representing the proposed consideration would remain with the subsidiary, and the circumstances of ownership would remain as they are. *Re Northern Pennsylvania Power Co. et al. (Order and Opinion No. 22); Re Northern Pennsylvania Power Co. et al. (Application Docket No. 33774).*

Electric Cars Not Governed by Horse-and-car Ordinance

THE days of the horse and buggy in the city of Washington were recalled when the contention was made before the District of Columbia commission that one-man street cars were prohibited by an act of Congress approved

in 1892 forbidding conductors to act as drivers on horse cars. The commission overruled the contention and held that it had jurisdiction to pass upon and specify equipment to be used.

The commission held that the act of 1892 applied only to the type of equipment specifically mentioned therein; namely, horse cars or cars drawn by horse power. At the time of the passage of the act, it was said, street cars propelled by electric and cable power were being operated under authority of previous acts of Congress.

The commission approved the acquisition of one-man cars of the Providence type as substitutes for other cars considered inadequate, but held that the Providence type of car should not be used for additional equipment. Any additions to the fleet of one-man cars in the District, it was held, should be brought about only through the acquisition of cars equivalent or superior to the Presidents' Conference type of car. *Re Capital Transit Co. (P. U. C. No. 2843/10, Formal Case No. 267, Order No. 1535).*

Orders Imposing Rate Investigation Expenses on Utility Held Invalid

THE Southern Bell Telephone & Telegraph Company successfully attacked, in a Federal court, orders of the Louisiana Public Service Commission directing the corporation to pay to the commission certain sums to defray the cost of investigation by the commission.

The orders were intended to be issued in compliance with Act No. 20 of the second extraordinary session of the legislature of Louisiana for the year 1934. This act authorizes the commission to impose upon "public service and public utility corporations" the burden of paying the expenses incurred by the commission in examining the affairs of such corporations to enable the commission to fix and regulate their rates; to provide for the employment and fees of engineers, consultants, and the like necessary to conduct examinations; and the act further provides that as a penalty for failure to make such payment upon certification to the commission, the commission might revoke the certificate of authority of the company to do business until the full amount should be paid.

The act was held invalid on the grounds that it applied only to corporations and not to natural persons and that it imposed an unjust burden upon the corporation because it was a corporation, which burden was not placed upon natural persons engaged in the same identical business. Under this construction the statute was held to violate the equal protection clause of the Fourteenth Amendment.

It was further held that even if the statute were constitutional, there was no power granted to the commission to enter any orders directing the company to pay such sums, nor was such power conferred by the Constitution and statutes of the state. The act provided that the commission should "certify to the corporation" the amount of expenses incurred.

The invalidity of the orders was further decreed upon the ground that the demand for payment was for work which was not done for the purpose of being used in any investigation being made by the commission in proceedings pending before it but for the purpose of aiding the commission in sustaining in court an order already entered, after investigation, reducing rates. *Southern Bell Telephone & Telegraph Co. v. Louisiana Public Service Commission et al. (No. 340 in equity).*

Electric Company Must Serve Municipality Near Its Transmission Line

THE supreme court of Georgia sustained a commission order requiring the Georgia Power Company to construct a distribution system within a municipality along its transmission line although the company contended that the commission had no power to order such an extension of service, that the company had never dedicated its property to such service and had no franchise in the municipality, and that if legislation were construed as authorizing the commission to pass such an order, such legislation would be violative of the due process of law provisions of the Federal and state constitutions.

The power company has a high power transmission line which passes within 69 feet of the corporate limits of the city of Andersonville. In the proceedings there were introduced city ordinances granting a franchise to the company and attempting to relieve the company perpetually from taxation in the municipality. A deed purporting to convey the necessary right of way for the distribution line was also introduced. Neither of the ordinances nor the deed had, however, been delivered to, or accepted by, the power company. The court held that the contention of the company that it had no franchise to enter the municipality was of no avail.

A joint resolution of the senate and house of representatives, approved by the governor, it was held, added nothing to the powers already conferred upon the public service commission, and, therefore, it was unnecessary to pass on the constitutionality of that resolution. The resolution had requested the commission to institute appropriate proceedings to require the company to furnish the service.

The court declared that the statutes authorized the commission to require all common carriers and other public service companies under its supervision to establish and maintain such public service as might be reasonable and just. It seemed to the court a reasonable construction of the term "establish" that it should be defined to include the extension of existing service and to bring into being new service and facilities in connection therewith. The power so conferred on the commission was held not to offend constitutional limitations.

A corporation organized to generate and supply hydroelectric power to the public and having a monopoly of such power in the section where it operates, it was held, has no authority to select customers or discriminate against members of a class it has elected to serve. *Georgia Public Service Commission et al. v. Georgia Power Co.* (*186 S. E. 839*).

Bond Issue Not Approved When Income Insufficient to Meet Fixed Charges

AN application for authority to issue $5,000 principal amount of 5 per cent bonds for cash, at a discount of 5 per cent, for the purpose of paying outstanding indebtedness consisting of notes and accounts payable, was denied by the Wisconsin commission because of the inadequacy of earnings to meet the fixed charges. The commission declared that it could not find that reasonable protection would be afforded to the purchasers of the bonds when the proposal would result in annual deficits.

The proposed bond issue was to mature serially, thus requiring an appropriation for retirement of bonds. The requirements for this appropriation, for interest on the present mortgage, and for interest on the additional bonds, after being deducted from gross, would leave a net deficit. The commission adverted to the provisions of the Wiscon-

sin statutes which require the commission to find that the financial conditions, plan of operation, and proposed undertakings of the corporation would afford reasonable protection to purchasers of securities to be issued.

The company urged that it could not issue additional common stock because there were insufficient earnings to pay dividends on common stock. The commission found that dividends could be paid, although they would not be large, but made the comment that it is equally true that if these dividends are not considered sufficient for common stockholders, the income is insufficient to pay the fixed charges on the bonds. It appeared to the commission to be fundamental that it should not authorize the issuance of a senior security when based on a less favorable showing and future prospects. *Re Nelson Teleph. Co.* (*2–SB–71*).

Free Interexchange Telephone Service Ordered Eliminated

THE Kentucky commission, after beginning an investigation of rates of the Southern Bell Telephone and Telegraph Company, accepted an offer of rate reductions conditioned upon the elimination of free interexchange telephone service, Commissioner Cammack dissenting. The majority of the commissioners stated that it had been the practice of the commission to accept for filing purposes all rates which would effect a saving to the consumers. The reason for this is that there is an immediate reduction to the consumers, while, at the same time, the commission is not precluded from considering, at a later date, the question of whether or not the reductions are sufficient.

Free interexchange telephone service which existed in 28 counties was held to discriminate against subscribers in the 31 other counties served by the company where no free interexchange service was furnished. This was found to be locality discrimination in violation of the statute. Discrimination between classes of customers in violation of the statute was also found to exist as between individual subscribers who had little or no use for such service and the minority for whose use such service was maintained and paid for by the majority. The commission cited rulings by other authorities against the free interexchange telephone service practice, and in explaining its own position said:

> This "free service" is no doubt a form of discrimination in rates. It provides an additional class of service for those who need it and use it without requiring them to pay the cost of that service. It is given between people who reside in separate communities where it is to the mutual interest that telephone connection be readily had without distinction as to costs because of distance separating the subscribers. In such communities it may be assumed that each subscriber will use the telephone freely. Experience shows that such is not the case. There is not the need for frequent telephone connection between subscribers who have not the same community or neighborhood interests. Hence, comparatively few subscribers use such free interexchange service, either for business or pleasure, and as such service is costly to maintain, and if these few are not required to pay additional charges therefor, the burden must fall upon the many who seldom, if ever, use this service. In some of the cases reviewed we find that experience and testimony discloses that less than 15 per cent of the telephone patrons avail themselves of the right to free service. In other words, all of the telephone users of that exchange must pay for the service that is furnished free to the 15 per cent.

Public Service Commission v. Southern Bell Telephone & Telegraph Co. (*Case No. 83*).

Transfer of Customer Contributions to Earned Surplus Permitted

A REQUEST of the Detroit Edison Company for a ruling relative to the propriety of the transfer to earned surplus of contributions made to the

company for line extensions in lieu of insufficient earnings was granted by the commission. The commission was of the opinion that such transfer is proper and should be approved with the understanding that in the consideration of rate matters such transfer would be included as income under miscellaneous operating revenues during those years in which the contributions were made.

The company's rules for line extensions provided for customer contributions where unprofitable extensions would not otherwise be justified as they would result in a burden on other customers. The commission had also approved line extension policies of other companies in which the customers were required to guarantee revenues proportional to the investment in the extension. The commission said:

> The result of the two policies, one a contribution and the other a guaranty of revenue, is the same, namely, an investment in physical assets by the company which would not otherwise be made.
>
> In the opinion of the commission, the accounting practices of the utilities should reflect the similarity of purpose of the two policies and it appears to it that it is more practical to do this by expressing contributions in terms of revenue than it would be to attempt to express guaranteed revenue in terms of a contribution or credit to capital investment.

Re Detroit Edison Co. (*D–1282*).

Expenditures for Flood Damage

COMPANIES in New England which suffered from the flood last spring have found it necessary to make large expenditures for repairing the damage. How such expenditures should be treated in a rate investigation was discussed by the Massachusetts Department of Public Utilities, which, over the objection of complainants against rates, gave weight to evidence of flood losses. It was said:

> The cost of repairing the damage caused by the flood must be met. A part of the loss probably can be charged to depreciation and thus permit the company to capitalize to this extent, at least, indebtedness properly incurred for additions and replacements necessary by reason of the flood. That which cannot be met in this way must be met from earnings or other cash resources, and allowance therefor must be made in determining the rates. We think it unnecessary that that part of the loss which must be provided for through earnings should be met in one year. We think, if necessary, it may properly be spread over several years.

Mayor & Aldermen of City of Lawrence v. Lawrence Gas & Electric Co. (*D. P. U. 4970*).

Costs Charged to Operation Cannot Be Transferred to Fixed Capital

THE Illinois commission, after an extensive investigation of rates of the Commonwealth Edison Company, negotiated a rate reduction order on an agreed rate base. The commission considered it unnecessary to discuss in detail the many points involved but stated that one point deserved special mention, namely, the contention of the company that the cost of its physical property as shown by the books did not report the true or actual cost of the company for such property inasmuch as many items of cost had not been charged to the property account. The additional costs were discussed by the commission as follows:

> These expenditures represent largely items which the company paid during these years for general administrative and supervisory services. It is evident that the company considered these expenditures as a part of its daily operating expenses because

it so charged them upon its books and so reported them in its reports to the commission. It would be improper to allow the company to capitalize on its books now any items (apart, of course, from mere accounting errors) which were charged to operating expenses and so reported in reports to the commission for the period from July 1, 1913, to the present.

Since no accrued depreciation had been deducted from original cost, the commission considered annual depreciation as being computed on a sinking-fund basis. *Illinois Commerce Commission v. Commonwealth Edison Co.* (*No. 22337*).

Proof Required to Sustain Increase in Minimum Charge

UNDER the New Jersey statutory requirement that a public utility increasing rates has the burden of establishing that the increases are just and reasonable, the New Jersey board held that where a gas company proposed to increase its minimum charge, effecting increases in total charges for some customers, it must produce evidence as to customer costs, demand costs, and consumption costs, although because of a rearrangement of blocks for consumption, net decreases would result for the larger users.

As a ground for the proposed increase the applicant rested upon a prior decision of the board approving the form of schedule which recognizes a three-fold classification of costs; (1) customer costs; (2) demand costs; and (3) consumption costs. The board said that if the applicant's broad interpretation of what was said in the course of the earlier decision was sound, it followed that for several years since that decision the applicant had kept in force rates which it knew or ought to have known were, in the judgment of the board, unduly discriminatory. In such a situation, it was said, the burden which the statute casts upon the applicant should be fully borne, particularly so when the increase is proposed to be made in a period of financial depression and in an area in which the effects of the depression have been severe in the extreme.

A mere mathematical calculation to show that the proposed increases and decreases would result in a decrease of total revenue received by the company, it was held, fell short of meeting the requirements of testimony as to the anticipated result of the changed rates where the decrease was proposed in connection with the increase as an incentive to consumers to use more gas, with a consequent increase in revenue. The board said further:

> To avoid misunderstanding the board now notes that it is not its understanding that the decision in the Public Service Electric and Gas Case stands for the proposition that, irrespective of conditions, a schedule other than in the form there approved violates the statute and effects undue discrimination.

Re Perth Amboy Gas Light Co.

Other Important Rulings

THE Michigan commission approved a proposed combination rate for full residential service through one meter, in place of separate schedules for lighting and for cooking, as an optional rate for existing customers but as the conclusive rate for taking on additional cooking customers. It was observed that service through two meters compels the customer to supply separate electrical circuits and in general is more unsatisfactory than service rendered through one meter. *Re Edison Sault Electric Co.* (*D–2962*).

NOTE.—The cases above referred to, where decided by courts or regulatory commissions, will be published in full or abstracted in *Public Utilities Reports.*

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Points of Special Interest

Titles and Index

TITLES

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v.

Blytheville Water Company

[No. 15.]

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29. A depreciation allowance of 1 per cent was held to be adequate and ample in the case of a water plant, p. 200.

Depreciation, § 41 — Funds — Interest.

30. Any interest on or earnings from funds set aside for depreciation should be credited to the depreciation reserve, p. 200.

Return, § 16 — Right to allowance.

31. A water company is entitled to a fair rate of return on the present fair value of the property used and useful in the rendition of the service to the public, p. 200.

Return, § 115 — Water utility.

32. A return of 6 per cent was held to be reasonable and fair for a water company, p. 200.

Return, § 5 — Sliding scale of rates — Excess earnings.

33. Any earnings in excess of the rate of return fixed for a public utility should be equitably distributed between the utility and the consumers, p. 201.

Return, § 5 — Sliding scale of rates — Hearing.

34. The Department, although of the opinion that it should put into effect a sliding scale of rates, should not do so without according the company and the city an opportunity to be heard upon the question, p. 201.

Valuation, § 82 — Accrued depreciation — Service efficiency — Service capacity.
Discussion of the distinction between service efficiency and service capacity, p. 190.

[August 15, 1936.]

COMPLAINTS *against water rates; rate reduction ordered and hearing ordered on question of sliding scale of rates.*

APPEARANCES: Cecil Shano, for plaintiff; House, Moses and Holmes for defendant.

By the DEPARTMENT: This cause is before the Department upon the complaint of the city of Blytheville alleging that the rates charged by the Blytheville Water Company (hereinafter referred to as the "company"), for water service to the citizens of Blytheville, and to the city for fire protection, are unjust and unreasonable and praying that just and reasonable rates be fixed by the Department. The company answered and denied all of the material allegations of the complaint.

At the direction of the Department its engineering division made a detailed inventory and appraisal showing the cost of reproduction and such cost less depreciation of the company's property used, useful, and necessary in the public service. The accounting division of the Department made a complete audit of the books of the company and ascertained as far as possible the original or historical cost of the property and the revenues and expenses of the company.

The cause, on order of the Department, was set for hearing and was, after notice, heard on March 31 and April 1, 2, and 3, 1936. At the conclusion of the hearing the company

asked for and was given time in which to file a brief, which was filed June 16, 1936. The issues are now before the Department for determination.

The company is an Arkansas corporation, wholly owned, controlled, and financed, with the exception of its bonded indebtedness of $120,000, by R. K. Johnston of Oklahoma City, Oklahoma. The company owns and operates only the water property at Blytheville, which it acquired from a receiver or trustee in bankruptcy of a holding corporation. The company began operating the property November 1, 1934.

In order to arrive at a correct determination of what are reasonable and just rates for a public service, consideration must be given to five factors to wit: (a) The present fair value of the property used, useful, and necessary in furnishing the service; (b) the annual operating revenues; (c) the annual operating expenses; (d) the annual allowance for depreciation, (e) and a fair rate of return.

[1] In determining the present fair value there is no set formula or artificial rule. Recourse may be had to book cost, original cost, cost of reproduction, the condition of the property, and many other elements. No one of these elements is to be treated as the exclusive or final test, but consideration and proper weight must be given all of them. Present fair value must be determined by using reasonable judgment based on proper consideration of relevant facts.

Original Cost

The books of the predecessor company were not available, therefore no accurate information as to the original cost of the property was available. The accounting division of the Department, however, introduced an exhibit compiled from the reports filed with the Corporation Commission for the purpose of assessment by that Commission for ad valorem taxes. This exhibit shows the book value of the plant and equipment on January 1, 1917, to be $47,503.06, and on December 31, 1927, to be $204,831.05, and net additions for each of the years 1917 to 1927, both inclusive, amounting in the aggregate to $124,511.19. The exhibit further shows that there was an arbitrary write-up on January 1, 1923, of the investment in the plant account amounting to $32,816.80. While there is no proof of the cost of net additions to the property since 1927, it is shown that practically all of the property included in the inventory was placed in service prior to December 31, 1927, with the exception of such as has been put into service by the present company, amounting to $24,859.15, consisting largely of deferred maintenance. Therefore, treating the $24,859.15 as being exclusively additions to the property, we have a book value or original cost of the property of $196,873.40. The company offered no testimony as to the original or historical cost of the property. Therefore, in the present case, in determining the present fair value of the company's property used, useful, and necessary in the public service, but little weight can be given to the original or historical cost.

Cost of Reproduction

J. E. Flanders, chief engineer for the Department, and the company's engineer, H. E. Musson, each made a

detailed inventory and appraisal of all of the items of physical property necessary in reproducing the company's water plant at Blytheville. There is no difference between the two engineers so far as the physical inventory of the property is concerned, with the exception of the number of feet of certain sizes of pipe. This difference is so small that it was apparently disregarded by the engineers themselves, and therefore, will be so treated by the Department. To the items of physical property prices were applied, unit costs built up, and allowances made for direct material and labor overheads, for general overheads and intangibles.

Because of some advance in prices of materials between the date of the appraisal by the engineering division of the Department and the time of the hearing, and because of the failure on the part of the engineer for the company to make allowances for discounts from the quoted prices of certain material, the engineer for the Department and the company's engineer, each asked and were granted permission to file separate exhibits, making a revision in their respective estimates of the cost of reproducing the property. The comparison of the revised estimates of the cost new of reproducing the property is as follows: [Table omitted shows total estimate of Department engineer $261,819, and company engineer $296,681.]

The appraisals of the two engineers were not made upon the same basis. Flanders made a separate allowance in general overheads for omissions and contingencies, while Musson to cover omissions and contingencies added to the material and labor cost of most items except wells and possibly some other items of major equipment 3 per cent and to some 3.17 per cent.

Flanders assumed that the property, with the exception of structures, reservoirs, wells, and stand towers, would be constructed by the company and not by a general contractor. Therefore, he made no separate allowance for contractor's profit and cost of performance bond, except on such items as he assumed would be constructed by a contractor. Musson on the contrary assumed that the property would be built by a general contractor and he therefore not only added 1½ per cent and 10 per cent to both material and labor costs to all items in the appraisal, except wells, to cover cost of contractor's bond and proft, but in many instances pyramided these percentages on each other and on the allowances for omissions and contingencies.

In order to get the two appraisals on a proper basis for comparison, it is necessary to strip Musson's of his allowance for omissions and contingencies and cost of contractor's profit and contractor's performance bond in each instance where such allowances were not made by Flanders as a part of the direct material and labor cost.

No disadvantage will accrue to the company by taking from Musson's labor and material cost the amount he has added thereto for omissions and contingencies if a proper allowance is made elsewhere to cover this item.

Musson added to his direct material and labor cost for omissions and contingencies $5,776, and to cover the cost of contractor's bond and profit the sum of $18,557. In segregating these items we are not able in each instance to determine the extent to which pyramiding was resorted to, and

therefore, where the record does not show clearly that there was a pyramiding of the percentages added by Musson to cover these items, the company is given the benefit of the doubt.

On Account 311 there is more than $1,500 difference between the two engineers as to the value of the land. Included in this account are twenty-two railroad crossing rights of way. Each of the engineers valued these at $220. The remainder of the land consists of four city lots, three of which are 50 feet x 140 feet and one 50 feet x 150 feet. It would serve no useful purpose to enter into a lengthy discussion of the different values put upon each of these lots by the two engineers and their method of arriving at their respective values. At the time of the hearing one witness, a resident of, and for fifteen years a real estate man in Blytheville, testified that values of the Department's engineer on these lots were reasonable. In support of his statement he detailed recent sales of lots in Blytheville in much better locations than either of the company's lots for much less than the value Flanders placed upon the different lots. The testimony of this witness was the best evidence before the Department as to the value of the lots and the Department, therefore, finds $1,487 to be the value of the real estate included in Account 311 as of April 1, 1936.

There is a difference of $2,980 between the two engineers in the reproduction cost new of the items in Account 312 (Structures) exclusive of omissions and contingencies and cost of contractor's bond. Four hundred fifty dollars of the difference is in the price of Wells Nos. 1 and 3. The Department's engineer was quoted a price on these two wells by the Layne-Arkansas Company, which company constructed the wells, of $9,500 and $10,000 respectively, with a discount of 10 per cent from the price of each well if the wells were put down one following the other without removal of equipment from Blytheville. The company's engineer was quoted a price of $9,500 on each well by a different representative of the Layne-Arkansas Company and he made no inquiry concerning the extra discount. The Department's engineer included the two wells in Account 312 at $18,550, arrived at by deducting the 10 per cent discount from the quoted price of $19,500. To this he added $500 per well to cover the expense of the company incident to the drilling of each well, such as the cost of water, lights, etc. The company's engineer made no allowance to cover these items.

Without the discount there is $500 difference in the quotations received by the two engineers on these wells. This difference applies particularly to Well No. 3. Well No. 3 would cost more than Well No. 1. Notwithstanding this fact the representative of the Layne-Arkansas Company who gave Musson his prices quoted the wells at the same figure. Well No. 1 is an 8-inch well with 86 feet of 12-inch surface casing, 1,264 feet of 8-inch casing with 50 feet of bronze strainer and is 1,400 feet deep. Well No. 3 is 1,468 feet deep, has 153 feet of 16-inch surface casing, 1,274 feet of 8-inch casing, and 78 feet of 8-inch bronze strainer. In view of this difference it is reasonable to suppose that Well No. 3 would cost more than Well No. 1. Therefore, the Department believes that the representative of the

Layne-Arkansas Company who gave Flanders the quotations was more familiar with the wells and their cost than the representative who gave Musson his quotations.

There is a great deal of expense incident to the shipping and moving of the heavy equipment necessary to drill wells of the character of those at Blytheville, and it is reasonable to suppose that if a driller can drill two wells at one location he could allow a discount. Therefore, the Department adopts, as the reproduction cost of these wells, the estimate of its engineer.

[2] Also included in Account 312, are the foundations for the well house, the derrick, and the pump for Well No. 1. The Department's engineer places the costs of these items at $333, while the company's engineer gives them a cost of $2,060, a difference of $1,727. What is now used for these foundations is a concrete basin, originally constructed and used as a reservoir from which water was pumped to the distribution system. This basin is around Well No. 1, and is 20½ feet x 13¾ feet x 13½ feet deep. When the filtration system was installed the basin was no longer used for the purpose for which it was constructed. It is now used and useful only as foundations for the well house, the derrick, and the pump for Well No. 1. The Department's engineer inventoried all of the excavation and the concrete in the basin, but only included that portion of each necessary for an adequate foundation for the well house, the derrick, and the pump in the property used, useful, and necessary in the public service. The company simply treated the whole basin as used, useful, and necessary for these foundations. It is obvious that the engineer for the Department was correct in treating a part of the basin as not necessary or useful in the public service, even though it is used in the manner indicated.

While it is probably true that the company would not be expected to tear up or wreck this concrete structure or put down new foundations, this fact is no justification for the inclusion of the cost of the whole basin in the rate base. The basin is now only useful for foundations and it is worth no more to the company or to the public than would be the reasonable cost of adequate foundations for the well house, the derrick, and the pump. The company did not question the adequacy of Flanders' figures on the cost of the foundations, but insisted that the cost of the entire basin should be carried into the rate base. The Department, therefore, finds that $333 instead of $2,060 is a reasonable cost of reproducing the foundations and that the public should not be required to pay a return upon that part of the basin in excess of the cost of reasonable foundations.

[3] After taking from Musson's estimate the cost of reproducing the reservoir $267 included therein for omissions and contingencies, his estimate is more than $1,500 higher than that of Flanders.

After this reservoir was constructed it was found to leak very badly because of the porous or improperly mixed concrete used therein. In order to correct this condition it was lined inside with brick. The brick lining was not successful and did not correct the condition caused by the faulty con-

struction. The company, after taking over the property, lined the reservoir with gunite. The reproduction cost of the brick and gunite lining aggregated $1,682. Flanders used as his cost of reproducing the reservoir an estimate of the cost furnished him by an experienced contractor. The figures of this contractor covered the cost of building a leak-proof reservoir of properly mixed concrete of the same dimensions as the concrete in the present reservoir. The testimony of the witnesses of both the Department and the company is to the effect that a leak-proof reservoir could be built without the use of the brick or the gunite. The contractor's figure for reproducing such a reservoir is $8,507. This figure did not include the cost of the brick and gunite linings.

Musson's estimate of the cost of reproducing the reservoir not only included the cost of properly mixed concrete, as did Flanders' estimate, but it also included the cost of the brick and gunite linings.

Ordinarily in estimating the cost of reproduction, consideration is given to the property as it is now designed and constructed and not to some other design or construction. But, as in the case of the reservoir, where faulty construction is discovered after completion and a large amount is spent for the purpose of correcting the faulty work, the ratepayers should not have to make good the cost occasioned by the negligence and carelessness of those responsible for faulty construction.

Certainly, if the brick and gunite lining are to be allowed as a part of the cost of the construction of the reservoir, the concrete in it should be figured on the basis of the faulty mix. The concrete so estimated would cost much less than the figure used by either engineer.

The Department's engineer was correct in excluding the cost of the brick and gunite lining in the sum of $1,686.

[4, 5] The Department is of the opinion that contractor's profit and cost of performance bond should not be allowed except on such items as are ordinarily constructed by a contractor.

There is no proof as to how the plant of the company was constructed, that is, whether by the owner, or by a contractor for the owner. The testimony further shows that ordinarily the owner of a private utility lets to contractors the erection of buildings, stand towers, the construction of reservoirs, and the drilling of wells. The other construction work is usually done by the company. The company introduced a witness by the name of Sherman, a contractor of long years of experience, who said that he had never constructed a plant for a private utility, but had constructed many plants for municipalities and other governmental agencies. The Department's engineer included contractor's profit and cost of his performance bond in the estimated cost of reproduction of the buildings, wells, stand tower, and reservoir. The company's engineer not only added such profit and cost of bond to these and all other items, but doubled it in some instances.

The stand tower was originally erected by the Chicago Bridge & Iron Works on a foundation furnished by the owner. This company quoted to

each of the engineers the cost of the stand tower erected. Included in these quotations was the Chicago company's profit, but notwithstanding this fact, Musson added 1½ per cent for cost of bond and 10 per cent for profit to the quoted price.

The largest amount of contractor's profit and cost of bond is found in Account 321—Distribution Mains. Reference to both inventories shows that this account is made up principally of 4-inch, 6-inch, and 8-inch cast iron pipe. Introduced into the record were bids of successful contractors, made during the year of 1935 and the latter part of 1934, on several PWA financed and municipally owned water plants in Arkansas. In each instance these plants were much smaller than the company's plant at Blytheville. In instances where these PWA projects were located at points where soil conditions were similar to those at Blytheville the low bidder's prices on 4-inch, 6-inch, and 8-inch pipe were lower than the price fixed in Flanders' appraisal for each size pipe.

Sherman, the witness above referred to, was, at the time he testified, engaged as a contractor in laying 4-inch, 6-inch, and 8-inch cast iron water pipe at Guthrie, Oklahoma. His price for furnishing the material and labor in laying the size of pipe indicated was respectively per foot 85 cents, $1.12, and $1.54. The prices of the Department's engineer for the same size pipe as set forth in his appraisal were 84.54 cents, $1.1264, and $1.5168.

The Department is of the opinion and finds that the cost of reproducing the property as estimated by its chief engineer is large enough for the company to reconstruct its property with the service of a contractor in the event it should desire to do so.

In addition to the appraisal of its engineer, the company introduced through the witness Sherman, an estimate prepared by him, of the cost of reproducing the distribution system, including fire hydrants, reservoir, and stand tower. The cost of reproducing the property included in this estimate is much higher than is that of the company's engineer or that of the Department's engineer or of any of the bids on the PWA municipally owned projects referred to. This witness used pipe prices of $1 per ton more than the market price. He added to the material and labor cost from 10 to 20 per cent to cover contractor's profit and overheads, and was unable to give a breakdown of this addition.

The conclusion is irresistible that the estimate of this witness was not made to determine the actual cost of reconstructing the company's water plant at Blytheville, but it is merely a contractor's hastily prepared estimate of what he would do the work for without competition. This witness in his estimate shows that 4-inch, 6-inch, and 8-inch cast iron pipe in place at Blytheville was worth respectively 98.5 cents, $1.505, and $2.025 per foot, while at the same time he was laying the same size pipe for respectively 85 cents, $1.12, and $1.54 per foot. In view of these circumstances, the Department can give but little if any weight to the testimony of Sherman with respect to the cost of reproducing the property included in his estimate.

By taking from Musson's cost of reproducing the property included in

Accounts 311 to 327g, the amounts heretofore discussed, which aggregate $29,779, his estimated cost of reproducing the property now included in said accounts is $230,399. Approximately $700 less than the estimate of Flanders, which amounts to $231,069. The Department believes that no injustice will result from rounding out Flanders' figure to $231,500.

The Department is of the opinion and therefore finds that as of April 1, 1936, the cost of reproducing new, the items of property listed and included in Accounts 311 to 327g, both inclusive, including all the direct material and labor overheads, such as field superintendence, time-keepers, and other clerical help during the period of construction, public liability, property damage and employers' liability insurance, tool expense, stores expense, and miscellaneous expenses would not exceed $231,500.

General Overheads

In addition to direct labor and material overheads there are certain collateral construction costs classed as general overheads or intangibles, which are defined as a surcharge on the appraisal value of the tangible property covering expenditures that might be incurred in the event of the reproduction of the property and which are not otherwise included in the appraisal. These consist of preliminary, organization, administration, legal and miscellaneous expense, engineering and superintendence, omissions and contingencies, and interest during construction.

The preliminary, organization, administration, legal, and miscellaneous expense as estimated by the Department's engineer amounts to $6,408, and by the company's engineer to $6,357. The Department adopts the estimate of its engineer and finds that preliminary, organization, administration, legal, and miscellaneous expense during construction would be $6,408.

[6] Estimates as to the amount of the other general overheads that would be incurred in the hypothetical reproduction are always very uncertain. Such estimates may be higher or lower than would be actually incurred if the property were reproduced. The Department's engineer, as well as the engineer for the company, based his estimate of these items upon a percentage of the cost of reproducing the physical property. The company's engineer used 5 per cent of all structural items covering engineering and supervision, while the Department's engineer used an over-all weighted percentage of 4.92 per cent of Accounts 311 to 327g, inclusive. The weighted percentage was arrived at by taking 1 per cent of the estimated cost of reproducing the items in Accounts 327a to 327d, no percentage on Account 311—Land, and 5 per cent on all other accounts.

The Department believes that 4.92 per cent as used by its engineer and which amounts to $11,389.80, when applied to the aggregate cost of reproducing the property included in Accounts 311 to 327g, both inclusive, is sufficient to enable the company to secure competent engineers, detailed engineering data, and supervision in the event the property was reconstructed.

[7] The Department's engineer allowed for omissions and contingencies an over-all weighted percentage of

2.28 per cent on Accounts 311 to 327g, both inclusive. The percentage that he allowed against the various accounts ranges from nothing on land to a high of 10 per cent on Account 327g. The company's engineer allowed 3 per cent on all accounts except 321a, on which he allowed 3.17 per cent, and Accounts 323, 324, and 325, on which he allowed 3.12 per cent. The company's engineer allowed for omissions and contingencies $5,776, arrived at as above indicated. The Department's engineer allowed 1 per cent on Account 312—Structures. The cost of reproducing the largest items in this account was based upon a contractor's estimate of a turnkey job, and, in our judgment, 1 per cent is an ample allowance. On Account 315, which is made up of large units, the Department's engineer allowed 2 per cent.

These percentages appear to be ample, especially when consideration is given to the fact that two inventories of the property have been made, which, for all practical purposes, were in agreement with respect to the items of physical property. There can, therefore, be little chance of omissions or failure to include all of the physical property. The only expense which could arise in the reproduction of the property, not otherwise allowed for in the appraisal and which could be classed as omissions and contingencies, would be unforeseen obstacles that might arise in actual construction. There is not a chance, in view of the two inventories, that there would be the same omissions of property that would be expected in an estimate for original construction.

The Department adopts 2.28 per cent of all accounts from 311 to 327g to cover an allowance for omissions and contingencies, and finds that $5,278.20 is a reasonable estimate for omissions and contingencies.

[8] Included in the amount of omissions and contingencies are taxes on real estate during the construction period. Taxes will be excluded on all other items during construction under the authority of Harrison v. Boone County Teleph. Co. (1934) 1 Ann. Rep. Ark. D. P. U. 15 (4 P.U.R. (N.S.) 121).

[9] Each of the engineers estimated that 3 per cent interest would be sufficient allowance for interest on funds during the period of construction, and the Department adopts this percentage and finds that $7,637 is an ample allowance for all interest during the period of construction.

After taking into consideration all of the pertinent facts and circumstances in proof bearing on the cost of reproducing the property of the Blytheville Water Company, the Department finds that on April 1, 1936, the cost of reproducing the property of the company used, useful, and necessary in the public service as set forth and included in the inventory filed herein, including intangibles and overheads, but excluding materials and supplies, going value, and cash working capital, is $262,213.

Accrued Depreciation

[10, 11] In arriving at the present fair value of any property it is necessary to take into consideration the depreciated condition thereof. Depreciation is the used-up service capacity of the property. The public should not be compelled or permitted to pay

rates which would give the company a return on this used-up service capacity.

The depreciation concept affects the problem of rate making in two ways: First, through the rate base as a measure of the deduction to be made from the value of the property new; Second, though operating expenses in recognition of the depreciation which will accrue annually in the future. The first is usually referred to as "accrued" depreciation and the second as "depreciation allowance." At this point we are only concerned with accrued depreciation and the depreciation allowance will be discussed later.

Depreciation has always been a perplexing factor in utility regulation. The depreciated condition of any property is only an estimate based upon the judgment of those making the estimate. Usually, and irrespective of the experience of those making the estimate, there is a wide difference in estimates.

[12] Many companies take an inconsistent attitude with respect to accrued depreciation and the depreciation allowance. The company in this case is no exception. In fixing the fair value of a property almost invariably it is insisted that the accrued depreciation upon the property is much smaller than it actually is, and when it comes to making an annual allowance for future depreciation it is insisted that a high allowance is necessary and the allowance generally asked for is usually out of all proportion to the amount of accrued depreciation insisted upon.

The engineer for the company states that the over-all weighted condition of the property as applied to all accounts is 93.35 per cent of new. A very large part of this property has been in use for more than twenty years and practically all of the remainder for as much as ten years. During that period the company's engineer says that the property has only depreciated 6.65 per cent and at the same time insists that a 2 per cent annual allowance is necessary to take care of future depreciation. He takes the anomalous position that the depreciation allowance, which he insists upon, would in three and one-half years amount to more than the depreciation now existing on the property, although the property has been in use for at least ten years, and a part of it for a much longer period. These positions are inconsistent. The amount of depreciation which will accrue in the future certainly has some relation to the amount of depreciation which has accrued in the past.

The Department's engineer estimates the over-all weighted percentage of condition of all the property to be 89.79 per cent and that 1 per cent of its reproduction cost new is ample each year to take care of future depreciation. These estimates appear to be more consistent than does the estimate of the company's engineer.

[13] The Department's engineer made a much more careful study of the present condition of the property than did the engineer for the company. The former based his per cent of new condition of the property upon a straight-line or age-life method, as modified by observation. The company's engineer used exclusively the observation method. By using such known elements or guides as remaining life expectancy, average age, and

service life, and making the necessary corrections based upon observation. Flanders used a more scientific method for determining per cent condition of new than the observation method employed exclusively by the company's engineer.

As an illustration, Well No. 1, was put down in 1916, with steel casing. Flanders estimates the life of steel casing to be thirty years. At the time of the hearing the well had been in use twenty years. When this casing wears out the well will be practically a total loss. The company's engineer estimates the life of steel casing to be fifty years. With respect to Flanders' estimate, two thirds of the service life of the casing is gone, and based upon the service life as estimated by the company's engineer, two fifths of the life of the casing has been exhausted. The Department's engineer gives the well 64 per cent condition, and the company's engineer gives it 85 per cent condition. Based upon the service life of the casing in the well, it appears that the engineer for the Department made a rather liberal allowance and if the company's engineer had been consistent, he would have found the condition of the well to be approximately the same as the Department's engineer. With an assumed condition of 85 per cent after twenty years' use, steel casing new would have a life expectancy of 133 years. Upon its face this is ridiculous.

The engineer for the company apparently took the position that very little, if any, depreciation exists in property which is maintained at 100 per cent efficiency. He seemed to make no distinction whatever between service efficiency and service capacity.

The distinction between these terms was very cogently stated by Commissioner Eastman, in the case of Re Depreciation Charges of Telephone and Steam Railroad Companies (1931) 177 Inters. Com. Rep. 351, 401, as follows:

"It is important to appreciate the distinction between service efficiency and service capacity. Every piece of property used by a railroad or telephone company has a certain capacity for service. It may be unlimited, as in the case of land, or it may be limited to a period of time, as in the case of ties or rails or telephone apparatus. Loss in service capacity causes depreciation in value, but may not, and usually does not, in itself cause loss in service efficiency. A classic and simple illustration is that of the lead pencil, which continues to write efficiently although much of it may have been used up."

Taking into consideration the service life of the several items of property, the length of time they have been in use, their probable date of retirement, and the observed depreciation thereof, the Department finds that 90 per cent of the cost of reproduction new is a reasonable over-all weighted per cent condition of the property, and that the accrued depreciation thereon is $26,221.

Going Value

[14] The only proof of going value was that offered by the engineer for the company. He said, based upon his experience, the going value of the property is 10 per cent of the cost of all other items therein. He was unable to assign any proportion of the percentage to the contributory factors

usually claimed to make up going value. In fact, he was unable to say what these factors were. He was unable to give a reason why the percentage should not be less or greater than that indicated by him. "One gains a definite impression that the opinions (of this witness) are derived for the most part from a professed experience and understanding of business conditions generally, and very little from any knowledge of the 'history and circumstances of the particular enterprise.'" Columbus Gas & Fuel Co. v. Ohio Pub. Utilities Commission (1934) 292 U. S. 398, 78 L. ed. 1327, 4 P.U.R.(N.S.) 152, 162, 54 S. Ct. 763, 91 A.L.R. 1403.

It must be remembered that going value is not to be "read into *every* balance sheet as a perfunctory addition." Dayton Power & Light Co. v. Ohio Pub. Utilities Commission (1934) 292 U. S. 290, 78 L. ed. 1267, 3 P.U.R.(N.S.) 279, 54 S. Ct. 647.

The testimony of the engineer for the company as to going value is of a highly speculative character and is obviously too conjectural to justify an addition to cover going value of 10 per cent of the necessary cost of constructing and placing a plant in successful operation.

Materials and Supplies and Cash Working Capital

[15] The company's engineer treated Account 328 of his inventory amounting to $3,756 as necessary for materials and supplies to be carried on hand for the purpose of maintaining the property. This account as set up by the company's engineer, includes such property as he found in the warehouse of the company. Included were meters and a large number of meter boxes, removed from the property as well as a large amount of material used and useful only in making extensions and additions to a property of this character.

It is obvious that the consumers of the company should not pay a return on property used in making extensions and additions until such extensions and additions have been made. Furthermore, they should not pay a return on property retired from or taken out of the system just because it happened to be in the warehouse.

Both engineers included in the inventory, Account 321, a sufficient number of meters for use in making changes for tests and repairs.

Blytheville is approximately seventy miles from Memphis, where all of the material necessary to properly maintain the plant can be secured in a few hours, and in view of this condition it is not necessary for the company to carry a large amount of materials and supplies in its warehouse.

The engineer for the Department, after making a study of the materials and supplies on hand and in the company's warehouse, as well as a study of the maintenance materials and supplies used by the company during the period of its operation of the property, estimated that $1,000 for materials and supplies is ample and would enable the company to promptly and efficiently make all necessary repairs to the property, and the Department adopts this figure.

[16–18] The company is entitled to have on hand sufficient cash designated as working capital to enable it to maintain its credit, take the usual discount on repair and maintenance ma-

terials, and to enable it to pay a portion of its operating expense such as salaries.

The company reads its meters after thirty days' service has been supplied. It then must make and mail its bills and ten days are allowed for payment. Thus it is seen that approximately forty-five days' expenses are incurred before the company collects. During that period salaries of employees must be paid, as well as some of the other operating expenses. Not all operating expense, however, should be allowed for in cash working capital.

One of the large items of expense of the company is electric power for pumping water. The bill for power is rendered and paid in the same manner as the customers of the company pay their bills. Therefore, the company is able to collect funds from its customers sufficient to pay its power bill, and does not need to have on hand cash working capital with which to meet this item of expense. Cash working capital should not include taxes and interest and other items that are accrued monthly and set up and charged to operating expense. These items are only paid once a year and by accruing them the company will always have on hand sufficient funds out of which to pay them. Re Yonkers Electric Light & P. Co. (N. Y. 1934) 6 P.U.R.(N.S.) 132; 2 Guiding Principles of Public Service Regulation, by H. C. Spurr, p. 232.

The engineer for the company estimated that it should have cash working capital of not less than two months' operating expense. This is excessive for the reasons just stated.

The Department finds that $4,000 is an ample allowance to the company to cover materials and supplies and cash working capital.

Present Fair Value for Rate Base

Giving full consideration to all elements necessary in determining present fair value and after giving consideration to the present cost of labor and materials entering into the reconstruction of the property, giving but slight weight to the historical cost of the property, and giving full consideration to the probable trend of future prices and the accrued depreciation on the property, the Department finds that on April 1, 1936, the present fair value of the property of the company, used, useful, and necessary in the public service, as a going concern, with customers attached and earning money, did not exceed $237,000, and the Department further finds that the rate base, consisting of present fair value, materials and supplies, and cash working capital, on which the company is entitled to earn a reasonable return, did not on the date aforesaid exceed $241,000.

Revenue

Having determined the rate base and value upon which the company is entitled to earn a fair return, it becomes necessary to ascertain the amount of gross revenue the company is expected to receive per annum.

The revenue of the company for the year 1935 was $44,156.59. The revenue for the first three months of 1935 was $10,093.82. The revenue for the same period of 1936 was $11,037.07 or $943.25 more than in 1935. This percentage of increase for the first three months of 1936 over the same months of 1935 is more

than 11 per cent. If the percentage of increase for the first three months of 1936 is maintained throughout the year the revenue of the company for 1936 will exceed $49,000. If the increase for the first three months of 1936 is annualized and added to the revenue of 1935 the company's 1936 revenue will be $47,939.

[19] The proof shows that there are many instances where more than one customer is using the water of the company through the same service and meter and only one bill is made and collected at the standard rates. The several customers so served, or some one of them, pays the bill and makes a pro rata collection from the other customers based upon the number of customers served through the one service. The extent to which this practice is permitted is not shown by the record.

The practice should be stopped. It is highly discriminatory and enables those who are served with water in the manner indicated to receive their service at a cost less than their neighbor who alone is served through one connection.

The form of rate in effect with the company is a block rate and as the consumption increases the unit cost of water decreases. Thus where two or more customers receive their water through one meter and pay one bill they are getting an advantage over the customer who alone is taking water through one meter. This practice is a violation of the law, both on the part of the company and the customers taking the service under these circumstances. (See §§ 12 and 13 of Act 324 of the Acts of 1935.) It is assumed that the company will stop this practice when its attention is called to the discrimination and unlawfulness thereof.

The town of Blytheville, which is served by the company, according to the last Federal Census, had more than 10,000 people and the company only has 1,300 customers. It is in proof that the water company operating in Helena, Arkansas (with a population of 8,300), had approximately 1,800 customers. This fact indicates that the company at Blytheville can attach many more customers. The proof shows that the company expects to add several hundred new customers in the near future.

The economic conditions throughout Arkansas are improving and the town of Blytheville is no exception, and it is to be expected that the revenue of the company will be substantially increased because of the change in economic conditions.

It is also in proof that at the time the company took over the property and at the beginning of the year of 1935 there were some five or six hundred dead meters on the system, and that the company in the early part of 1935, began changing these meters and repairing the dead ones. It was the practice of the company during the time a meter did not register to bill the customer only at the minimum. The changes in meters were not completed until some time in the late fall of 1935, therefore, the entire effect of this change upon the revenue of the company is not reflected in the gross revenue of the company for 1935. Although it cannot be determined what the effect of the new meters will have upon the revenue of the com-

pany, they certainly will increase the company's revenue.

The Department believes, and finds, that the revenue of the company for the calendar year of 1936, under the present rates, will not be less than $47,000. This represents an increase in the revenue for 1936 over that for the year 1935, of less than 7 per cent.

The chief accountant for the Department, as well as the accountant for the company, estimated that the 1936 revenue of the company would be the same as it was for the year 1935. At that time neither of these witnesses had the experience of the company for the first three months of 1936, and therefore, in view of the actual figures for the first three months of 1936, the Department is of the opinion that the estimate of these witnesses is too conservative.

Expenses

[20–23] The operating expenses of the company for the year 1935, as reflected by its books, were $30,711.90. Of this amount the accountants for the Department eliminated $5,571.76. Some of the items were eliminated upon the theory that they were not recurring, while others were eliminated upon the theory that they were not proper charges to operating expenses. The amount thus eliminated consists of, (1) delinquent taxes due in previous years upon the property in the sum of $4,059.67, (2) cost of reroofing and putting new foundations under buildings, making the repairs thereon, which were in the nature of taking care of deferred maintenance in the sum of $816.93, (3) the purchase price of a 50-horsepower motor installed in the plant amounting to $277.16, (4) the sum of $200 expenses incident to retiring the preferred stock of the company and issuing notes in lieu thereof, and (5) donations to sundry activities in the sum of $218.

The company admitted that $3,634.72 delinquent taxes for prior years was erroneously charged to operating expenses for 1935.

The difference between the accountants for the Department and the company with respect to the delinquent tax item is due to the fact that the accountants for the Department deducted the amount actually paid on account of delinquent taxes, while the accountant for the company deducted from the amount of taxes paid in 1935 the amount actually paid and accrued on the 1935 taxes, thereby reducing the amount of delinquent taxes by the amount of any over-accrual for the taxes of 1935. It is obvious that the actual delinquent taxes paid in 1935 and charged to operating expenses of that year is the proper amount to be deducted, rather than some theoretical amount which would be effected by an overaccrual.

Items numbered 2 and 3 charged out of operating expenses of 1935 by the accounting division of the Department are certainly not proper operating expenses. The proof shows that the buildings upon which item 2 was expended were taken into the appraisal by the engineer for the company and the Department at a value or per cent condition that included the cost of the work upon them, and the proof further shows that the motor set out in item 3 was also included in the appraisal. Both of these items have found their way into the rate base and

the cost of each is therefore not chargeable to expenses because they are proper capital expenditures.

Item 4, is not an expense but is either a part of the cost of organization for which a proper allowance has been made in the rate base or should be treated as financial expenses. It is certainly not recurring and should not be used as a basis for estimating future expenses.

Item 5, $218, represents donations which the chief accountant for the Department disallowed as a proper operating expense upon the theory that only donations which "tend to increase revenue or decrease expenses are chargeable to operations."

Many donations of public utilities are not proper operating expenses even though they are made to worthy causes. The rule with respect to donations that may be charged as a proper operating expense of a public utility is found in Re New York Teleph. Co. (N. Y.) P.U.R.1932D, 20; Re New York Teleph. Co. (I. C. C.) P.U.R.1933C, 409; Re Northwestern Electric Co. (Or. 1932) P.U.R. 1933A, 493; (1935) 11 P.U.R. (N.S.) 227.

If a public utility wants to establish a reputation for being liberal and public spirited it must do so at the expense of its stockholders and not of its ratepayers. Many customers of a utility make individual contributions to the same causes that the utility contributes to, and the customer should not again be forced to make another contribution through a charge for a utility service.

There is no proof in the record showing to whom these contributions were made. The company was in possession of the report of the chief accountant for the Department for more than forty days before the hearing in this cause was begun. This report clearly showed that these donations had been disallowed and the reasons therefor, and notwithstanding this fact the company made no attempt to justify the donation as an operating expense. The company was in possession of all the facts concerning the donations, therefore, it must be assumed since it offered no testimony to justify their charge to operating expenses that the several contributions were not of a character so chargeable.

[24] The company is owned, controlled, and financed, with the exception of a bond issue of $120,000 by R. K. Johnston who lives in Oklahoma City, Oklahoma. He is a man of affairs and for a number of years prior to acquiring this property had maintained an office with employees in Oklahoma City.

Immediately after acquiring the Blytheville property he began paying himself $250 per month and charged it to the company's general expenses. In explanation of this payment and charge it was shown that Johnston paid $125 for keeping the general books of the company, to an employee that had been with him for a number of years in the Oklahoma City office. Fifty dollars per month was paid by Johnston to cover office rent on the Oklahoma City office, and $75 per month was retained by him as a salary. In addition to this payment of $250 per month, Johnston caused the company to reimburse him for traveling and hotel expenses incurred in connection with numerous trips from

Oklahoma City to Blytheville in the year 1935.

The accountant for the Department estimated, after examining the general books kept in Oklahoma City, that $50 per month would be a reasonable charge for keeping them, either at Blytheville or Oklahoma City, and that $50 per month would be an ample allowance for Johnston's salary, and that nothing should be allowed for office rent at Oklahoma City.

There was an attempt upon the part of the company to justify the expenditures at Oklahoma City upon the theory that Johnston was a successful business man and that his experience and judgment was worth a great deal to the company, in fact more than it was paying.

It must be remembered that Johnston in reality is taking $250 per month as a salary. While it is true he says that he pays a regular office employee $125 for keeping the books of the company, that is the same amount he was paying the office employee before he acquired the company. Then, too, he says that he pays $50 per month as rent on his Oklahoma City office. This amount of rent Johnston was paying before he acquired the Blytheville property. Thus, it is seen that Johnston himself, is taking $250 per month as a salary from this company. This is an excessive salary for the owner of this property, who devotes only a small portion of his time to the company, especially when he maintains a manager on the property at Blytheville. During the year of 1935 Johnston kept a local manager at Blytheville at a salary of $150 per month for most of the year, and at the time of the hearing in this cause, another general manager had been employed at $175 per month.

The rule is that where the owners of a utility corporation, acting for it, pay money to themselves in the capacity of officials, the burden of proof is upon them to show that services rendered are reasonably worth the compensation paid. Consolidated Teleph. Co. v. Georgia Pub. Service Commission (1934) — F. Supp. —, 2 P.U.R.(N.S.) 454; Smith v. Illinois Bell Teleph. Co. (1930) 282 U. S. 133, 75 L. ed. 255, P.U.R. 1931A, 1, 51 S. Ct. 65; Wichita Gas Co. v. Kansas Pub. Service Commission, 2 F. Supp. 792, P.U.R.1933B, 225, 537.

If Johnston does not want to confine the activities of the company to Blytheville and wants to maintain a managerial set-up scattered over two states for the purpose of managing a small water property, he may do so at his own expense and not at the expense of the consumers in Blytheville. The keeping of the books of the company in Oklahoma City does not materially increase Johnston's office expense there.

Therefore, the Department finds that the operating expenses as reflected by the books of the company for the year of 1935 should be further adjusted by striking therefrom the sum of $1,800, the same being in excess of a reasonable allowance for Johnston's salary and the cost of keeping the books.

With the adjustments above indicated the reasonable operating expenses of the company for the year of 1935, instead of being $30,711.90 as shown on the books of the company,

should have been $23,340.14. The average operating expenses of the company for the years of 1929 to 1933, both inclusive, were $23,352.92. The operating expenses of the company were for the years of 1932 and 1933 respectively $28,009 and $27,192. Included in the expense of these years were respectively $3,633 and $4,226 paid to the receiver of the holding company controlling the water property at Blytheville. These payments were in the nature of a management fee. Deducting these management fees, the expenses of the company for these years would be respectively $24,376 and $22,666.

The company estimates that its operating expenses for the year of 1936 will be $31,953.49. The accountants for the department estimate that the reasonable operating expenses of the company for the year of 1936 will be $22,786.24.

The Department is of the opinion that the operating expenses as estimated by the company are entirely too high, and that the estimate of the accounting division of the Department is too low, when consideration is given to the fact that the Department expects the revenue of the company for the year of 1936 to be greater than it was for the year of 1935.

[25] The company claims expenses incident to this rate investigation in the sum of $2,761.31. The expenses of the company incurred incident to an investigation of the rates are ordinarily amortized over a period of five years, that is, one fifth of the expenses is in each year charged to operating expenses.

The Department allows the sum of $2,761.31 as the company's expenses of this investigation and directs that one fifth thereof, or the sum of $542.26, be charged to operating expenses each year beginning with the year of 1936, until the sum of $2,761.31 is in this manner recovered.

The company has increased the salary of its employees for the year of 1936 over that prevailing in 1935. Viewing the whole record in its most favorable light to the company, and taking into consideration the operating expenses of the company for 1935, the average of its expenses for each of the years of 1929 to 1933, both inclusive, and after making due allowance for the increased cost of operation on account of the increase in the revenue expected, the Department is of the opinion and finds that the reasonable operating expenses of the company for 1936 should not exceed $26,500, including one fifth of the expenses of this investigation and income taxes.

The Department is of the opinion that the property of the company could be operated for less than the $26,500 without impairing the service in the least. At the time of the hearing the company had twelve to fifteen employees on the payroll. The necessity for this large number of employees is not shown. It is very questionable if they all will be retained throughout the year or after this investigation is concluded.

Depreciation Allowance

[26] A charge must be made against operating revenue to cover future depreciation expenses of the company. This charge need not be larger than necessary to keep the value of the property constant. Knoxville v.

Knoxville Water Co. (1909) 212 U. S. 1, 13, 53 L. ed. 371, 29 S. Ct. 148.

The Supreme Court of the United States in the above case used this language:

"A water plant . . . begins to depreciate in value from the moment of its use. Before coming to the question of profit at all the company is entitled to earn a sufficient sum annually to provide not only for current repairs, but for making good the depreciation and replacing the parts of the property when they come to the end of their life. The company is not bound to see its property gradually waste, without making provision out of earnings for its replacement. It is entitled to see that from earnings the value of the property invested is kept unimpaired, so that, at the end of any given term of years, the original investment remains as it was at the beginning. It is not only the right of the company to make such a provision, but it is its duty to its bond and stockholders, and, in the case of a public service corporation, at least, its plain duty to the public."

[27] It has been generally accepted that the depreciation allowance should be sufficient not only to take care of the wear and tear incident to the use of the property, but also to take care of retirements occasioned by obsolescence, inadequacy, and removals and changes at the instance of public authorities. By reason of the experience of the users of various classes of property going to make up a completed water plant there is but little difficulty or guess in estimating a depreciation allowance ample to take care of the natural wear and tear of property when the value of that property is known. Those familiar with the subject must realize that in making an estimate of an allowance necessary to take care of obsolescence and inadequacy, nothing but a guess can be made. Science and invention today may make units of property in a water plant obsolete tomorrow. Such an invention, however, may not be made for many years to come.

The question of inadequacy is governed wholly by the expansion of the business of the company, which, to a very great extent, is dependent upon the growth of the community which the plant serves. Therefore, an estimate of a depreciation allowance based upon inadequacy is, at best, a mere guess. Removals and changes occasioned by public authority are in the same category as is obsolescence and inadequacy. Public authorities are generally, in this country, selected by popular vote of the people. Changes and removals occasioned by such authorities depend almost wholly upon the political whims of those who, for the time being, are in authority. No one with any reasonable certainty can foretell when a change or removal may become necessary or be required at the hands of public authorities.

In order to take as much of the guess as possible from an estimate of a depreciation allowance, the Department is of the opinion that the allowance should be sufficient to cover only retirements caused by ordinary wear and tear and that a reserve to meet these contingencies should be set up out of revenues and that the cost of property retired for any other cause, to the extent not already credited at the time of the retirement to the de-

preciation reserve and less the net salvage, should be charged to the abandoned property account and amortized over a reasonable period of time. The unamortized portion of this account should bear interest at a rate equal to the rate of return permitted.

By this method the ratepayers of this decade would not be required to set up a reserve for improvements that may or may not be made in the succeeding decades. A piece of machinery only becomes obsolete when a more efficient or economically operated machine is placed on the market. It does not become inadequate until the demands upon it exceed its capacity. The installation of a new machine, whether caused by obsolescence or inadequacy of the old, usually means lower operating costs or greater revenues, which in turn means lower rates or better service. Those who get the benefit of these lower rates or better service should pay for the improvements that made them possible. This can be accomplished only through the plan indicated. Changes and removals at the instance of public authorities do not ordinarily improve the service, increase the revenue, or lower operating costs. They are usually made because of a civic improvement such as removing poles and wires from streets to alleys or underground, or for the purpose of widening or paving streets or highways. Theoretically, at least, these changes make the community in which they take place a better place in which to live or result in greater convenience to the public. The cost of such changes should be borne by those who will enjoy and receive the benefits thereof.

There is but little property in a water plant that is retired because of obsolescence, inadequacy, or at the instance of public authority, and therefore but little consideration need be given to these factors in estimating a depreciation allowance. It has been the policy of the courts and Commissions, however, to give consideration to and make allowance for these factors. Under the plan outlined above no consideration should be given these factors in arriving at the depreciation allowance. The Department will in this case, and possibly in others coming before it, fix the depreciation allowance large enough to keep the investment in the property as near constant as possible.

[28] The amount of depreciation in property is ordinarily in the inverse proportion to the amount spent on it for repairs and maintenance. High maintenance means small annual depreciation. The amount necessary to be set aside to cover annual depreciation of any property, caused by wear and tear, is governed to a very great extent by the amount of the annual maintenance upon it. Lindheimer v. Illinois Bell Teleph. Co. (1934) 292 U. S. 151, 78 L. ed. 1182, 3 P.U.R.(N.S.) 337, 54 S. Ct. 658.

In estimating the annual expenses of the company a liberal allowance was claimed and has been made for maintenance expense, therefore the company cannot expect a large allowance for depreciation.

The larger part of the investment in the property under examination consists of cast iron pipe. Nobody seems to know how long cast iron

pipe will last. Such pipe has been removed from the ground after being there from seventy-five to one hundred years and has been found to be in good condition with a long service life remaining.

[29, 30] A water plant as a whole has been estimated to have a life of one hundred years. Biddeford & Saco Water Co. v. Itself (Me.) P.U.R.1920B, 597.

An annual allowance for depreciation on the physical property of a water utility has by the Commissions of a great number of states been fixed at 1 per cent of the fair value of the property. Seymour v. Seymour Water Co. (Conn.) P.U.R. 1932B, 175; Re United Pub. Service Co. (Ind.) P.U.R.1918F, 316; Re Indianapolis Water Co. (Ind. 1924) P.U.R. 1925C, 431; Leavenworth v. Leavenworth City & Ft. L. Water Co. (Kan.) P.U.R.1915B, 611; Re Rangeley Water Co. (Me.) P.U.R. 1925E, 720; Re Roanoke Water Works Co. (Va.) P.U.R.1920C, 745.

Several Commissions have fixed the allowance for depreciation at less than 1 per cent of the present value of the property. See Nace v. McConnellsburg Water Co. (Pa.) P.U.R. 1926E, 248; Nantucket v. Wannacomet Water Co. (Mass. 1934) 4 P.U.R.(N.S.) 493. It must be remembered in fixing these rates for the depreciation allowance, consideration was given to the factors of obsolescence, inadequacy, changes, and removals at the instance of public authorities.

In this case the present fair value of all property of the company has been fixed at $241,000. Part of the property included in this valuation is not depreciable. The Department is of the opinion that 1 per cent, or $2,410 per year is an adequate and ample allowance for annual depreciation in this case, plus 1 per cent of the net additions hereinafter added to the property. Any interest on or earnings from funds hereafter set aside for depreciation shall be credited to the depreciation reserve.

Rate of Return

[31, 32] The company is entitled to a fair rate of return on the present fair value of the property used and useful in the rendition of the service to the public. In the case of Harrison v. Boone County Teleph. Co. (Ark. 1934) 4 P.U.R.(N.S.) 121, is found a discussion and review of several cases from the Supreme Court of the United States and other courts upon the question of what is a fair return for a public utility. The Department takes judicial notice of the effect the long economic depression has had upon dividends of corporations generally. The proof shows that at this time money is plentiful and for sound investment purposes may be secured at a very low rate. Money on real estate security may be had now for as low as 5 per cent, while in times past small loans have ranged as high as 7 to 9 per cent.

The company under examination has a virtual monopoly in its business at Blytheville. It has a good plant with a good business and it is difficult to conceive of an investment that is more secure. The company has outstanding $120,000 of 5 per cent bonds. While it is true that it has a note outstanding for $50,000 bearing 7 per cent interest, it was admit-

ted at the hearing that this note was owned and at this time held by Mr. Johnston who owns and who has furnished all of the capital to acquire and finance this property except the bond issue.

Taking into consideration all the pertinent facts in proof, the earnings of private corporations in Arkansas, and the cost of money, the Department finds that 6 per cent is a reasonable and fair return for the company. A 6 per cent return upon a rate base of $241,000 as fixed in this case will enable the company to pay the interest upon its outstanding bonds and the $50,000 note held by Mr. Johnston at the contract rates of 5 per cent and 7 per cent respectively, and give the stockholders a return of 6.98 per cent on the net worth of the company, that is the fair value of the property less the bond issue and the outstanding note.

Excess Earnings

The company, under the findings aforesaid, is earning $3,600 per annum more than a 6 per cent return and should be ordered to file new schedules of rates making a reduction of $3,600 per annum in its gross revenue.

In its complaint the city charged that the rates of the company for hydrant rental, as well as for service to domestic and commercial consumers, was unreasonable and excessive. The Department is of the opinion that the reduction in rates should apply largely to domestic and commercial service only.

An analysis of the cost of service at Blytheville indicates that some of the company's customers are paying too much of the cost of service, and that others are not bearing their just proportion of such cost; and the analysis further shows that the city is paying as hydrant rentals approximately the amount it should pay therefor plus free water to the schools and city hall. An effort should be made to eliminate the indicated discrimination in the new schedule of rates.

Sliding Scale of Rates

[33, 34] One of the criticisms by the public utilities generally made of regulation, and which is not wholly without merit, is, that under regulation, whenever a base rate of return is fixed by a regulatory authority, and the utility through efficient and economical operation and the expansion of its business, earns more than the return fixed, all the excess is given to the consumer through further reductions in rates.

Such a practice, to the extent that it has become established, has had a tendency to put a premium on indolence and inefficiency and to destroy initiative on the part of those managing public utilities.

The Department is of the opinion that when a rate of return is fixed for a public utility, any earnings in excess of that rate should be equitably distributed between the utility and the consumers. This plan is not new. It was, a number of years ago, put into effect by the Commission of the District of Columbia with very gratifying results. We believe that with a plan in effect such as the one above indicated, municipalities will be more interested in keeping down the franchise burdens of public utilities and

at the same time we believe that the public utilities themselves will strive harder and put forth more effort to keep down their operating expenses and to increase the volume of their business.

There has become noticeable to this Department a tendency upon the part of some public utilities to designedly increase their operating expenses in order to keep from making a reduction in rates, and, in the opinion of the Department, the company under examination is no exception. There has been before the Department one case where the management of a utility actually invited the city to levy a pole tax against it in order to increase operating expenses so as to avoid and forestall a reduction in rates. In the particular instance, the city levied a pole tax and did, thereby, forestall a reduction in rates.

Section 20 (a) of Act 324 of the Acts of 1935 specifically authorized the Department to establish and put into effect a sliding scale of rates for public utilities whereby the customers of the company share in any earnings of the company in excess of the rate of return which may be fixed.

The Department, however, is of the opinion that while it should put into effect a sliding scale of rates, that it should not do so without according the company and the city an opportunity to be heard upon the question, and this it will do.

It is therefore *ordered:* 1. That the company within ten days from the service of this opinion and order upon it, file a revised schedule of rates for water service at Blytheville effective July 1, 1936, which will make a reduction in its gross revenue of not less than $3,600 per year.

2. That the Blytheville Water Company and the city of Blytheville, each, within ten days from the date of the service of this opinion and order upon them, appear and show cause, if any they have, why a sliding scale of rates should not be put into effect by the Blytheville Water Company whereby an equitable and reasonable division between the company and its customers may be made of any earnings of the company in excess of 6 per cent upon the reasonable fair value of its property as herein fixed, plus such net additions as may hereafter be made thereto.

PENNSYLVANIA PUBLIC SERVICE COMMISSION

Re Service Gas Company

[Application Docket No. 34259, Folder Nos. 1 and 2.]

Certificates of convenience and necessity, § 104 — Natural gas — Restricted classes.

1. The desire of a company to sell natural gas to large industrial users only, because it can sell more gas in a much shorter time and there must be an outlet for the gas, is private and not public in character and is not a

ground for granting a certificate to serve only a portion of the public, p. 205.

Monopoly and competition, § 40 — Proposed rate cutting.

2. Applicants for authority to render service in competition with established companies, because the service can be furnished at lower rates, should support their argument by definite evidence that operation at the lower rates will be profitable, or at least will not be conducted at a loss, p. 206.

Monopoly and competition, § 4 — Rate cutting.

3. One of the principal purposes of regulation under the Public Service Company Law is the prevention of ruinous rate competition between public service companies, p. 206.

Certificates of convenience and necessity, § 85 — Grounds for granting — Protection of unauthorized investment.

4. Protection of an investment made by a company doing business without authorization and unlawfully operating as a public service company should not be the controlling end to be furthered by the Commission in acting on an application for authority to operate, p. 208.

Monopoly and competition, § 58 — Gas companies.

5. The public interest is better served by regulation of established companies which have maintained gas service in a territory for many years and have provided for the future than by permitting competition where the proposed competitor cannot offer an assured future supply, p. 209.

Monopoly and competition, § 48 — Grounds for authorizing competition — Rates and service defect.

6. The remedy for rates or service which are improper or inadequate lies in correction of such impropriety or inadequacy rather than in the authorization of competition by a group which cannot assure, even to a restricted section of the public, the continuance either of lower rates it offers or of the natural gas supply which it proposes to furnish, p. 209.

(STAHLNECKER and GOLDBERG, Commissioners, concur.)

[June 23, 1936.]

APPLICATION *for approval of incorporation of natural gas company and beginning of the exercise of charter powers; dismissed.*

By the COMMISSION: This matter comes before us upon petitions for approval of the incorporation of Service Gas Company and the beginning of the exercise of its charter powers. The proposed corporation desires to serve natural gas to the public in the following townships in Potter county: Genesee, Allegany, Oswayo, Harrison, Ulysses, Bingham, Hebron, West Branch, Summit, Pike, Sweden, and Sharon, a total of twelve. The three townships of Westfield, Clymer, and Elkland in Tioga county, and the seven McKean county townships of Ceres, Eldred, Otto, Foster, Bradford, Keating, and Lafayette are also included in the territory to be served. No service rights are asked in the city of Bradford, or

in any of the boroughs in the territory.

The applications are protested by North Penn Gas Company, United Natural Gas Company, Smethport Natural Gas Company, and Manufacturers Gas Company. After the record was closed and briefs filed, and immediately prior to oral argument, Eastern Bituminous Coal Association filed a petition for leave to intervene as a party protestant. In view of the conclusion reached by us, it is unnecessary to pass upon this petition.

Under the provisions of Art. V, § 18, of the Public Service Company Law, approval of incorporation of a public service company, or of rendition of service by it to the public can be granted only upon a finding that such approval is necessary or proper for the service, accommodation, and convenience or safety of the public. We have given careful consideration to the present record for the purpose of determining whether or not it leads to such a finding.

That the proposed service would be largely competitive is shown by the facts that of the twelve Potter county townships named in the application, nine, namely, Genesee, Allegany, Oswayo, Harrison, Ulysses, Bingham, Hebron, Pike, and Sharon are served by North Penn Gas Company. All of the three Tioga county townships are served by North Penn; and three of the seven McKean county townships, namely, Ceres, Eldred, and Keating are served by that company. The United Natural Gas Company serves Genesee, Allegany, and Hebron townships in Potter county and Eldred, Otto, Foster, Bradford, Keating, and Lafayette townships in McKean county. The Smethport Gas Company serves Keating township in McKean county. Thus nineteen of the twenty-two townships are now served with gas by at least one company.

Ordinarily, proof of necessity for a proposed public service is supplied by the testimony of consumers who desire the service. Not a single consumer from the North Penn territory appeared in support of the application. Representatives of the Hanley Brick Company and the Kendall Refining Company which are located in territory served by the United Natural Gas Company and Manufacturers Gas Company appeared and testified that the lower rates offered by applicants are desirable. No other consumer witnesses were called.

In support of the applications, applicants suggest that the proposed service will be rendered at rates less than those presently charged by the gas companies now operating in the territory, and further that Godfrey L. Cabot, Inc., on whose behalf Service Gas Company has been organized, has expended a considerable sum of money in the acquisition of producing wells, that these wells will be depleted in four years, and that they should be permitted to market the gas so produced before the supply is dissipated.

We will first consider the matter of rates. It is not proposed to serve gas to domestic consumers, except such as may be located in close proximity to the transmission mains of the Service Gas Company. Commercial consumers will not be served. The primary purpose of the applications is to obtain authorization of the sale of gas to industrial consumers. The

price for such gas will vary from 30 cents per thousand cubic feet to 12 cents per thousand cubic feet. The 12-cent rate is set forth in a contract with Genesee Chemical Company, which provides that gas will be furnished for a term of four years at the rate of 12 cents per thousand cubic feet for the first year, 13 cents per thousand cubic feet for the second year, 14 cents per thousand cubic feet for the third year, and 15 cents per thousand cubic feet for the fourth year. Any renewal of the contract would be at a 15-cent rate. The North Penn Gas Company at present supplies gas to the chemical company at the rate of 15 cents per thousand cubic feet. The 30-cent rate is contained in a contract with the Hanley Brick Company which provides that charges during the 4-year term of the contract shall be on a sliding scale from 30 cents per thousand cubic feet to 14 cents per thousand cubic feet.

Speaking generally, it is clear law that a company rendering public service is entitled to a reasonable income based upon the value of its property used and useful in the public service. If it secures this income from three classes of consumers at certain rates, and one class ceases to take service, it is obvious that the burden of providing the income to which the company is legally entitled will fall upon the two remaining classes, thus necessitating an increase in the rates of these classes. This is particularly true where, as here, the eliminated class is the major source of income. The record before us does not conclusively show that if these applications are approved the reduction in income from the industrial consumers of the presently operating companies will be sufficiently large to necessitate an increased tariff for domestic and commercial consumers, but such a result will surely follow if Service Gas Company is able by its lower rates to attract the patronage of a substantial number of the industrial concerns now supplied by the protesting company. That it is the intention of the applicants to obtain as much of the industrial business as possible is shown in the hope expressed by Thomas D. Cabot, treasurer of Godfrey L. Cabot, Inc., that the Service Gas Company would secure all the industrial customers of the North Penn.

It is significant in this regard that the Service Gas Company proposes to serve only the large consumers of gas, so that, even if only a small number of customers take service from it, the loss to the companies now in the field will be large in amount. Thus, the proposed corporation, if it benefits any one in the last analysis, would confer that benefit only upon industrial users of gas at the expense of domestic and commercial consumers which applicants do not intend to serve. Such industrial consumers as continue to take service from the established companies would also be in danger of having their rates increased.

[1] The argument made in support of the applications that the public is entitled to cheap gas would be more persuasive if applicants intended to serve the general public. The terms of the applications negative such an intention. We perceive no valid reason why the general domestic

and commercial public should not be entitled to cheap gas, as well as the large industrial users. When asked why he did not desire domestic markets, Thomas D. Cabot replied "Because we can sell much more gas in a much shorter time and there must be an outlet for our gas." This reason is obviously private and not public in character. It does not convince us that we should grant a certificate to serve only a portion of the public.

Godfrey L. Cabot, Inc., is a Massachusetts corporation which was authorized to do business in Pennsylvania on December 18, 1934, but not as a public service company. Over six months prior thereto, on June 11, 1934, it entered the territory here involved and acquired gas and oil rights therein, until, on December 1, 1934, it owned or held under lease some 13,000 acres of land. By May, 1935, the Cabot acreage had increased to about 22,000, but since that time approximately 12,500 acres have been surrendered. Various dry holes were drilled by Cabot, but no producing properties were acquired until January, 1936, and these properties consisted of wells which had been drilled by other companies, and from which substantial amounts of gas had already been extracted. Service Gas Company will be wholly owned by the Cabot corporation and will own no gas-producing properties. The Cabot corporation is to produce the gas and sell it to the service corporation, which will own the distribution lines and facilities and will actually render the distribution service. In this way, the cost of gas to Service Gas Companies will depend upon the price at which the Cabot corporation is willing to sell its gas.

[2] The application at Folder No. 2 states that such facilities "as may be found necessary" will be constructed, but that "it is impossible at this time to estimate the cost of such facilities." The testimony shows that no detailed estimate of plant costs or transportation or distribution costs has been made. Possible revenues have not even been estimated, nor have operating expenses been calculated. It is true that such estimates and calculations are difficult where the extent of the service to be rendered cannot definitely be determined, but when applicants before this Commission argue that they should be permitted to render service in competition with established companies because the service can be furnished at lower rates, such arguments should be supported by definite evidence that operation at the lower rates will be profitable, or at least will not be conducted at a loss. The record in this proceeding is entirely devoid of such evidence, except for the opinions expressed by the treasurer and the general manager of the Cabot corporation, and they are neither clear nor conclusive. If they are wrong, the public and not the applicants will ultimately suffer from the error. The applicants, if they find that their service is not profitable, may raise their rates and so secure a profit, or, after engaging in injurious competition, may abandon the territory entirely.

[3] One of the principal purposes of regulation under The Public Service Company Law is the prevention of ruinous rate competition between public service companies. Experience

has demonstrated that where two or more such companies engage in rate war, the public, while possibly temporarily benefited, will ultimately be the loser. As stated by our superior court in Hoffman v. Public Service Commission (1930) 99 Pa. Super. Ct. 417, 429, P.U.R.1931A, 122, 128:

"A reading of the public service company law of this state compels the conclusion that one of the reasons for its enactment was the correction of existing methods of public utility regulation through the establishment of a body with the power to prevent competition in any particular utility field, and that the control of utilities as regulated monopolies, as opposed to destructive competition, was one of the objects to be obtained. The primary object of the public service laws is not to establish a monopoly or to guarantee the security of investment in public service corporations, but first and at all times to serve the interests of the public. Unrestricted competition is ordinarily to be avoided, not because in the first place it injures the corporations against which it is directed, but because, ultimately, the usual experience of man tells us, the losses ensuing are visited upon the public. Pottsville Union Traction Co. v. Public Service Commission (1917) 67 Pa. Super. Ct. 304."

It is therefore clear that any advantage which could accrue to certain industrial consumers might be bought at too great a cost to the remaining industrial, commercial, and domestic consumers. However, assuming that this substantial doubt should be resolved in favor of the applicants, we must still inquire as to the duration of this benefit to a favored few.

The present Cabot supply, according to Mr. Thomas D. Cabot, will probably be exhausted in about four years. In addition to the Pennsylvania customers to whom service is contemplated, the Cabot corporation is soliciting customers in New York state, and applicants state in their brief that the Eastman Kodak Company has already been secured. The acquisition of large customers of this type, consuming millions of cubic feet of gas per day, will, of course, increase the rapidity with which the supply will be exhausted, and it may be that the exhaustion point will be reached in less than four years. When that point is reached, the Cabot corporation will have before it the alternatives of piping gas long distances from reliable fields, manufacturing artificial gas, or withdrawing from the public service unless a new field is developed in the meantime. That the third course will be pursued is indicated by the past actions of the Cabot corporation. Mr. Thomas D. Cabot, treasurer of Godfrey L. Cabot, Inc., testified that "We have from time to time had a great many other subsidiaries, but I think they are all closed out and their charters surrendered." It is also indicated by the fact that applicants have made no careful study of the needs in the territory. Furthermore, although the applicants express a hope that additional fields will be discovered, they support this hope with no specific data. The thought appears to be that four years is a long time, and that something will turn up, but the applicants have already had their expecta-

tions disappointed. Four wells have been drilled in acreage acquired by the Cabot corporation, but no gas had been produced from any.

[4] Even though the difficulty of computing costs and revenues for a large territory in which competing service exists might justify considerable generality in such estimates, we would expect to find that applicants had calculated with some care their costs relative to the three contracts which they have already signed with the Genesee Chemical Company, the Hanley Brick Company, and the Kendall Refining Company. These companies are located at widely separated points in the territory proposed to be served, and the transmission mains to render the contract service will consequently be of considerable length. Other costs in connection with the contracted service will likewise be substantial. Thus, it is somewhat startling to find the record blank as to definite data upon the cost of such service. The general manager of Godfrey L. Cabot, Inc., testified that he did not know what percentage of profit might be expected even from the existing contracts, and that possibly no profit might be made. The Cabot company, from June 11, 1934, to December 18, 1934, was doing business in Pennsylvania without the Certificate of Authority required by the Business Corporation Law of May 5, 1933, P. L. 364. Even after securing such a certificate authorizing the transportation of gas for use in its own operations only, it proceeded to construct pipe lines for the supply of gas to the public. Under the certificate it had no authority to sell gas except at the mouth of the well, but it entered into contracts to sell gas delivered at points far removed from the locations of its dry wells. The solicitation of customers, and the construction of pipe lines continued until an injunction restraining the latter was secured from the court of common pleas of Potter county, and a complaint was filed with this Commission, alleging unlawful operation as a public service company. In a report and order of even date herewith we sustain the complaint finding that Godfrey L. Cabot, Inc., has operated as a public service company in violation of The Public Service Company Law, and ordering it to cease and desist from such operation. North Penn Gas Co. v. Cabot (Pa. 1936) 15 P.U.R.(N.S.) 23.

We do not feel that protection of an investment made under such circumstances should be the controlling end to be furthered by our action. The Public Service Company Law mentions no such basis for our decision. In fact, our supreme court has expressly held that "the basis of the action of the Commission is the interest of the public as distinguished from the interest of the corporation or individual making the application." Perry County Teleph. & Teleg. Co. v. Public Service Commission (1919) 265 Pa. 274, 281, 108 Atl. 659. Even were the interest of the applicants a matter for consideration, the circumstances of this case are not such as to recommend it as a controlling factor here. The "discovery well" which first tapped the Oriskany sand for a substantial production was brought in by Allegany Gas Company, a subsidiary of protestant, North Penn Gas Company, in Sep-

tember, 1930. Other fields, known as Hebron Pool, the State Line Pool, the Ellisburg Pool, the Harrison Valley Pool, and the Sabinsville Pool were brought into production between November, 1931, and June, 1935. Although the Cabot interests entered the territory in June, 1934, none of the subsequently discovered producing areas was first tapped by them. The only producing wells owned by the Cabot company at the time of hearing had been acquired in January, 1936. These wells had not been drilled by applicants, but were purchased from the companies which had drilled them. None of the wells was owned when the application was filed. In the light of these circumstances, we see no persuasive merit in the contention that law, equity, or reason requires the protection of an investment made long after the facts with reference thereto were available, and the risk easily ascertainable.

[5] The regulation of public natural gas service is complicated by many features peculiar to such service, among them the uncertainty of the duration of supply. We are convinced that the public interest is better served by regulation of established companies which have maintained gas service in a territory for many years and have provided for the future, than by permitting competition where the proposed competitor cannot offer an assured future supply. In contrast to the generalities of the applicants, the established companies offer reliable gas supplies which will continue to be available far beyond the 4-year period set for the supply of applicants. In addition, the presently serving companies have an investment in the territory which it will be to their interest to protect, if the natural gas supply should fail, by the erection of artificial gas plants. This step was actually taken by North Penn Gas Company in 1927, when a manufactured gas plant was constructed at Roulette in Potter county. These companies have developed the territory over a long period of years, have made available to their customers the advice of technical experts and other services to render the consumption of gas more economical and satisfactory, and have reduced their rates as such reductions became possible.

[6] It is our opinion that if the rates or service of the existing companies are improper or inadequate, the remedy lies in correction of such impropriety or inadequacy rather than in the authorization of competition by a group which cannot assure, even to a restricted section of the public, the continuance either of the lower rates it offers, or of the gas supply which it proposes to furnish.

We have carefully considered the record, and we cannot find, that approval of the applications is either necessary or proper for the safety, accommodation, or convenience of the public; therefore,

Now, to wit, June 23, 1936, it is *ordered:* That the applications be and are hereby dismissed.

Commissioners Stahlnecker and Goldberg concurred in the results, but not in the reasoning, and filed a concurring opinion.

STAHLNECKER and GOLDBERG, Commissioners: We agree with the conclusion that these applications

should be dismissed, but we cannot accept the reasoning of the majority in support of that conclusion. In our opinion, the Service Gas Company is not financially responsible and is therefore not a proper party to receive a certificate of public convenience. Its capitalization, as set forth in the application, is $25,000, an amount wholly inadequate in the light of the comprehensive and costly service proposed which will necessitate an investment of several hundred thousand dollars. It is said that Godfrey L. Cabot, Inc., a Massachusetts corporation, concerning whose financial responsibility there can be no doubt, will finance the proposed operations. If this be so, we feel that Godfrey L. Cabot, Inc., the real party in interest, should apply for a certificate of public convenience.

In our view, no necessity exists for any additional service in the area served by North Penn Gas Company, since the rates of that company compare favorably with those proposed by the applicant. However, we are not in accord with the principles set forth in the majority opinion as applied to the remainder of the territory. We perceive no valid reason why the public, in an area where gas is produced in enormous quantities and offered for sale at low prices, should be prevented, under the circumstances of the instant case, from obtaining the benefits of gas service at rates much lower than those charged by the companies now in the field. We believe that the ruinous competition feared by the majority would not eventuate since the record indicates that many oil producers and other industrial consumers in the territory find present gas rates prohibitive. If gas were available at the rates proposed by the applicant, it would become economically possible for them to use that fuel, and thus a market which is not now open to any gas company could be served. The Hanley Brick Company, one of the intended consumers of the applicant, furnishes a case in point. It now uses gas in a part of its plant, but its representative testified that if a supply were available at the rates offered by applicant, it could use gas in all of its operations. Obviously, in great measure the proposed service would be noncompetitive and rendered to consumers who are now unable to use gas in the development of their businesses. This fact was admitted at oral argument by at least one of the counsel for protestants.

It appears also that New York industries pay far lower prices for gas than their Pennsylvania competitors a few miles away, and this in the face of the fact that the Pennsylvania industries are located in the heart of the gas producing areas. We believe that such a situation cries for relief, since, as stated by the Commission in Re People's Nat. Gas Co. (1915) 1 Pa. P. S. C. 406, 408, P.U.R.1915C, 696, 698:

"No company has the right to expect a Commission to protect it against the competition of a product which can be supplied at less than one half the cost of another product and answer the same purposes.

"This Commission cannot but have in mind the question of competition in so far as modern and more advantageous services are concerned, at a less cost, *and if one company, by rea-*

son of its superior advantages, gives to the public a service as good as the existing utility, at very much lesser rates, the interests of the public should prevail, and for these reasons the first objection raised by the protestant company cannot be sustained." (Italics ours.)

We would favor approval of an application filed by a proper party asking the right to serve gas to industrial consumers in the territory covered by the instant application, excluding the area now served by North Penn Gas Company, since we do not feel that such approval would inaugurate seriously injurious competition, and we do believe that these industrial consumers are entitled to gas at rates reasonably comparable with those paid by their neighbors and competitors in North Penn territory or in New York state. Such a decision would not be without precedent: Re People's Nat. Gas Co. *supra*. See also Wichita Gas Co. v. Public Service Commission, 132 Kan. 459, P.U.R. 1931B, 442, 295 Pac. 668.

WISCONSIN PUBLIC SERVICE COMMISSION

Re Wisconsin Power & Light Company

[CA-85.]

Certificates of convenience and necessity, § 81.1 — Grounds for denial — Coöperative enterprises.

1. The Commission, in determining whether an electric utility should be permitted to extend rural lines in territory where a coöperative association proposes to operate, is not called upon to review the financial responsibility, ability to render adequate service, or other policies of the association, but the Commission bases its action on the assumption that the coöperative association (not required by law to secure a certificate) intends to serve the territory at least as completely as a utility could be compelled to do by Commission order, the Commission reserving the power to change its order if evidence is received that the coöperative association will not or is not accomplishing this purpose, p. 213.

Certificates of convenience and necessity, § 81.1 — Grounds for denial — Proposed operation by coöperative association.

2. Authority to extend rural lines of an electric utility company into territory where a coöperative association proposes to operate, having secured the execution of a loan contract for financing construction, should be denied so that the majority of prospective users may have the opportunity of determining for themselves what grade and cost of service the coöperative will be able to provide, since neither the interests of users of electricity nor of the utilities will be served by having two competing agencies attempting to supply the same group of customers, p. 213.

[June 9, 1936.]

WISCONSIN PUBLIC SERVICE COMMISSION

REHEARING *of application by electric utility for authority to extend lines in rural territory; application granted in part and denied in part without prejudice.*

By the COMMISSION: Notice of investigation in this application was issued December 4, 1935. At a hearing in the office of the Commission in Madison on December 9, 1935, the following appearances were entered: Wisconsin Power and Light Company, by B. E. Miller, Secretary, Wm. Ryan; Schubring, Ryan and Petersen, Attorneys, Madison; Richland Center Light and Water Department, by R. H. Strang, Superintendent; city of Richland Center, by Anton Mueller, Alderman, George Fogo, Gillingham, Theron Janney, Rockbridge, and Otto Stanek, Yuba.

On December 17th the Commission issued its order granting the application of the company to extend its lines. After issuance of this order the Commission received signed applications from interested farmers asking that the company's application be held in abeyance until "the matter of promoting a Rural Electrification Administration project in this territory can be thoroughly considered." The signers to this petition stated that they also had signed contracts with the Wisconsin Power and Light Company. The Commission also received resolutions from the board of supervisors of both Marshall and Rockbridge rescinding the previously granted permit to the company for the line extensions in question.

Accordingly the Commission on December 20th ordered a rehearing, which rehearing was held in the offices of the Commission at Madison on December 24, 1935, with the following appearances:

Wisconsin Power and Light Company, by B. E. Miller, Secretary, Wm. Ryan, Attorney; Schubring, Ryan and Petersen, Madison; city of Richland Center, by V. W. Thomson, City Attorney, George Fogo, Gillingham, in his own behalf and in behalf of School District No. 1.

At the rehearing it was agreed by all interested parties that the application of the company would be held in abeyance pending the further development of plans for a coöperative organization to build and operate rural distribution lines. In January the Commission held a general conference on the present problems involved in rural electrification. At this conference it was arranged that a committee representing the utilities and the Rural Electrification Coördination committee would confer on the possibility of planning an orderly development of rural lines. Subsequently on February 20th, those interested in forming a coöperative in Richland county met with representatives of the utilities concerned in the offices of the Commission. At this conference it was agreed that for a period of ninety days the company and the representatives of the coöperative association would not build lines or solicit customers in the towns of Marshall and Rockbridge and a designated section of the town of Richland as well as in

other towns not involved in the company's application in this proceeding.

[1, 2] On May 16th the Rural Electrification Administration announced that a loan contract had been signed providing funds to finance construction of 231 miles of rural electric distribution lines in Richland county. These lines are reported to have 752 prospective customers. The company's testimony at the first hearing indicated 18 applications for service in Richland, 17 in Marshall, and 13 in Rockbridge—a total of 48 prospective users.

In view of the development of plans for the coöperative to the stage of a loan contract it appears to the Commission that definite formal action should now be taken upon the company's application. The Commission has reviewed the testimony, exhibits, and petitions in this docket and has considered the results of the informal conferences. As indicated by the figures shown above, the coöperative association, now duly organized, appears to have the support of the majority of prospective users of electricity in the area. A contract for borrowing funds for construction from the Federal government has been negotiated and arrangements are being made for the purchase of electricity at wholesale. We are not informed what the members of the coöperative will have to pay for electricity. Hence we cannot at this time compare the relative costs of electricity furnished by the company and by the coöperative association. However, it appears that the coöperative proposes to serve all in this area who desire to become members and to serve only members. Hence, under existing statutes and court decisions, the coöperative association does not appear to be a public utility which would require a certificate from this Commission. No application therefor has been made by the association. Unless and until the law is changed in ths respect, or application made, the Commission is not called upon to review the financial responsibility, ability to render adequate service, or other policies of the association. The Commission is basing its action herein on the assumption that the coöperative association intends to serve the territory at least as completely as a utility could be compelled to do by Commission order. If evidence is received that the coöperative association will not or is not accomplishing this purpose, the Commission reserves the power to change its order herein.

A few farmers near the Richland town line and one or two more distantly located have asked that the company be permitted to extend to them. If this request is granted, and the coöperative still goes ahead, we would have a second agency to supply the same area. In the long run the Commission does not believe that the interests of either the users of electricity or the utilities will be served by having two competing agencies attempting to supply the same group of customers. From our experience, such competition usually leads to duplicate lines, wasteful investment, and excessive costs of service. Such results clash with the orderly development of rural electrification. But orderly development is essential for economy in an area where lack of density leads to higher investments per customer and

higher service costs than in urban communities. Accordingly the Commission believes that the majority of prospective users should have the opportunity of determining for themselves what grade and cost of service the coöperative will be able to provide. To afford this opportunity requires a denial of the company's application.

Two factors in the situation deter the Commission from a complete denial of the company's application. (1) According to the testimony, a rural school in Gillingham is now dependent for electric water pumping upon a delco plant on a near-by farm. The owner of this plant has given notice that it may soon prove inadequate. Unreasonable delay in extending a dependable supply of power cannot be brooked in this situation. (2) As stated above, we are not informed as to the cost of electricity to members of the coöperative, nor as to the grade of service to be rendered. We presume that the coöperative will build its lines according to the state electrical code and that construction and operation will be such as to avoid interference with telephone circuits along the same highway. If not, the Commission may be obliged to take appropriate action in the interest of public safety and adequate telephone service.

In view of these contingencies and our desire to see electric service supplied as speedily as possible to those desiring it, our order herein will not foreclose a renewal of the company's application if the final arrangements by the coöperative to serve this area do not prove acceptable to the majority of prospective users.

At one of the informal conferences, representatives of the Coöperative Association agreed that the company should extend its lines in a portion of the town of Richland, in general the portion west and south of Richland Center. The city of Richland Center, which owns a municipal electric plant, has made no objection to these extensions. This part of the company's application should therefore be granted.

The Commission therefore finds that the application of the Wisconsin Power and Light Company to extend its lines in the town of Richland, Richland county, except in the area designated in the order below, is in the public interest and that a certificate should issue. The company's application to extend its lines in the towns of Rockbridge and Marshall, and the portion of the town of Richland designated below is denied without prejudice for a period of 120 days from date of this order, at which time the application may be renewed for good cause shown.

It is therefore *ordered* that a certificate of authority be and hereby is granted the Wisconsin Power and Light Company to extend its lines in the town of Richland, in Richland county, except in sections 1, 2, 3, 10, 11, 12, 13, 14, 15, and the east one half of sections 4, 9, and 16.

It is *further ordered* that the company's application to build lines in the towns of Rockbridge and Marshall in Richland county be denied and dismissed without prejudice to a renewal of the application, upon showing good cause, after 120 days from the date of this order.

It is *further ordered* that the Commission reserves jurisdiction to revoke or amend this order to correct any situations which may arise from the failure of the coöperative association to serve the area completely.

INDIANA PUBLIC SERVICE COMMISSION

Re Indiana Telephone Corporation

[No. 12359.]

Security issues, § 60 — Purpose — Stock acquisition — Nonutility corporation.

A telephone company should not be permitted to issue and dispose of preferred stock for the purpose of providing funds for the purchase of the common capital stock of a corporation which owns a building leased and occupied by the telephone company, since it is not in the public interest for the utility to own and speculate in the stocks of nonutility corporations.

[May 29, 1936.]

PETITION *by a telephone company for authorization to issue and dispose of preferred stock; denied.*

APPEARANCES: Honorable Will A. Hough, Attorney, Greenfield, and Goodrich and Emison, Attorneys, Indianapolis, by Pierre F. Goodrich, for petitioner; Herbert P. Kenney, Assistant Public Counselor, for the public.

By the COMMISSION — TRABUE, Commissioner: April 1, 1936, Indiana Telephone Corporation filed with the Public Service Commission its verified petition for authority to issue and dispose of 250 shares of its Series A preferred stock having a par value of $100 per share, total par value $25,000, for the purpose of providing funds with which to acquire 523 shares of the common capital stock of Telephone Realty Company, an Indiana corporation.

Pursuant to notice duly published in The Indianapolis Times and The Hoosier Sentinel, two newspapers of general circulation printed and published in Marion county, Indiana, more than ten days before the date of hearing, a public hearing was held in the rooms of the Commission, 401 State House, Indianapolis, Indiana, at 10 o'clock A. M., April 30, 1936, with appearances as above noted.

No one appeared at said hearing to oppose the granting of said petition, and no objections have been made or filed herein.

At said hearing the following exhibits were offered by petitioner, and admitted in evidence: [List of exhibits omitted.]

Honorable Will A. Hough, attorney for petitioner, Pierre F. Goodrich, president of the petitioner, Harry O. Garman, consulting engineer, and J.

Dwight Peterson, vice president and director of said Telephone Realty Company and likewise a vice president and a director of petitioner, testified herein.

The evidence shows that:

1. Certain of the important exchanges and other property of petitioner now occupy real estate, owned by said Telephone Realty Company, described in Exhibit B attached to and forming a part of Petitioner's Exhibit 1; that petitioner's predecessor utility operating as Southern Indiana Telephone and Telegraph Company occupied and used said property under a lease dated August 1, 1930, which provided for a minimum annual rental of $15,000 and a larger rental under certain conditions therein set out; that said lease was terminated in the reorganization proceedings referred to in Petitioner's Exhibit 3, and that a new lease providing a minimum annual rental substantially less than that provided in the former lease dated May 1, 1935, is now in full force and effect, and runs until the 30th day of April, 1965; that by the terms of said lease petitioner is obligated to pay a minimum rental of $8,000 for the first year, $9,000 for the second year, $10,000 per annum for the third and subsequent years during the term of said lease until all of the preferred stock of lessor now outstanding in the total amount of $82,500, together with all dividends accumulated or accrued thereon shall have been redeemed and paid, and a minimum annual rental of $6,000 after the redemption of said preferred stock and the payment of all dividends accumulated and accrued thereon; that in addition to said minimum annual rental petitioner is required by the terms of said lease to pay (1) all taxes and assessments which may be assessed, levied, or imposed against or upon lessor, (2) all insurance premiums on policies of insurance against fire, tornado, or other casualties, and (3) all other costs and expenses of lessor incident to the ownership, care, maintenance, and repair or remodeling of improvements on said real estate and all expenses of lessor which may be incurred in the maintenance of its corporate organization and securing an extension of the time for the retirement for redemption of its outstanding preferred stock; that petitioner estimates that all of the outstanding preferred stock of lessor, including all dividends accumulated and accrued thereon, can and will be redeemed and paid with and out of the rentals provided in said lease within a period of approximately ten years.

2. The leased property is particularly suited and convenient for the occupancy of petitioner, and that the value of such property for any other use will be materially less than that for which it is now used, and that said property will rent to better advantage for such use than for any other use.

3. Petitioner proposes and now seeks authority from this Commission to issue and sell 250 shares of its Series A preferred stock, par value $100 per share, at par for the purpose of providing funds with and out of which to purchase 523 shares (par value $100 per share) of the outstanding common stock of said Telephone Realty Company; that said Telephone Realty Company now has outstanding 593 shares of its common capital stock, par value $100 per share; that

petitioner now owns 49.88 shares of said common stock and upon acquiring said 523 shares will be the owner of all outstanding common stock of said Telephone Realty Company except 20.12 shares; that petitioner believes it will eventually be able to purchase said 20.12 shares at a reasonable price and thereby become the owner of all of the outstanding common stock of said Telephone Realty Company; that said 523 shares of said common stock, which petitioner proposes to purchase, is of the reasonable value of $25,000.

The Commission, having heard and considered the evidence and being sufficiently advised in the premises, finds:

1. That the rental provided in the lease, under which petitioner occupies the property described therein, is unreasonable and excessive; that said lease has never been submitted to this Commission for its approval and does not have the approval of this Commission;

2. That there is no evidence in the record that petitioner cannot negotiate a lease with the owners of said property upon a reasonable rental basis;

3. That it will not be in the public interest for petitioner to own and speculate in the stocks of other nonutility corporations, and it will, therefore, not be in the public interest for petitioner to issue its preferred stock for the purpose of providing funds for the purchase of the common capital stock of the Telephone Realty Company as prayed for in the petition in this cause.

4. That the prayer of the petition herein should be denied, and the expense incurred by the Commission in publishing notice of the hearing herein should be paid by petitioner.

It is therefore *ordered* by the Public Service Commission that the prayer of the petition in this cause be and the same is hereby denied.

It is *further ordered* that petitioner, Indiana Telephone Corporation, pay into the treasury of the state of Indiana, through the secretary of the Commission, the sum of $5.71, being the expense of publication of notice of hearing in this cause.

McCart, Chairman, and Cook, Commissioner, concur.

WISCONSIN PUBLIC SERVICE COMMISSION

William C. Behnke et al.

v.

Wisconsin Gas & Electric Company

[2-U-996.]

Service, § 51 — Powers of Commission — Extensions.

1. The Commission has power to order any privately owned utility to extend into a small territory immediately adjacent to the territory where

it operates if the conditions under which the extension is to be made are reasonable, p. 219.

Service, § 44 — Powers of Commission — Extensions — Effect of territorial agreement.

2. The Commission has power to order a public utility company to extend service into adjacent territory which is not served by any public utility company, notwithstanding the existence of a territorial agreement between the two companies on either side of such territory providing that a different company shall render service in the territory, p. 219.

Service, § 177 — Extensions into unserved territory — Choice of company.

3. An extension of rural electric service into territory between the served areas of two electric utilities was required of one of the companies rather than the other because its rates were lower, because prospective customers desired its service, and incidentally because their trading center was at a point where the utility maintained a district office which would facilitate servicing of lines, payment of bills, and other incidents of service, p. 220.

Service, § 177 — Extensions in unoccupied territory — Choice of company — Assumptions as to rates.

4. An assumption that an electric company's rates are reasonable and that its service must be admitted to be adequate is not a conclusive reason for the Commission to order such company into adjacent territory rather than another utility company which is also adjacent to such territory when prospective customers in the territory desire service from the other company, p. 220.

Service, § 132 — Extensions — Alternative source.

5. Public convenience and necessity requiring an extension of electric service by a public utility company into adjacent territory exists when a group of farmers in the territory want service from such company, when they can get it more cheaply that way, and when the company is located immediately at hand with facilities ready and able to serve, notwithstanding the fact that another company is also in a physical position to render adequate service, p. 221.

Service, § 178 — Extensions — Effect of territorial agreement.

6. An extension of electric service by a public utility company into adjacent territory should be ordered when required by public convenience and necessity, notwithstanding the existence of a territorial agreement with another company giving the other company the right to serve such territory, there being no present electric service in such area, p. 221.

[July 27, 1936.]

PETITION *for Commission order requiring extension of electric lines and facilities; extension ordered.*

By the COMMISSION: Under date of June 16, 1936, this Commission issued an order by which we "authorized and directed" Wisconsin Gas and Electric Company to extend its lines and facilities into a certain area, minutely described in our order, and to serve therein certain petitioners who

had requested electricity from this company.

By order of June 20, 1936, we made a minor correction in the description of territory involved.

Wisconsin Gas and Electric Company filed its application for rehearing, dated July 1, 1936, upon said order.

On July 2, 1936, application for rehearing was filed by Wisconsin Power and Light Company.

Rehearing was held on July 9, 1936. Wisconsin Gas and Electric Company appeared by Shaw, Muskat and Paulsen (Mr. F. H. Prosser). Wisconsin Power and Light Company appeared by Schubring, Ryan, Petersen and Sutherland (Mr. William Ryan). Hon. O. S. Loomis, State Rural Electrification Coördinator, appeared at the invitation of the Commission.

According to the evidence, Wisconsin Power and Light Company has a territorial agreement with Wisconsin Gas and Electric Company, by terms of which Wisconsin Gas and Electric Company has agreed that it will not serve in certain territory, among which is the particular area described in our order of June 16th.

The evidence shows that no service whatsoever is being rendered in this particular area today. (Tr. 45, 46.) The evidence further shows that both companies have operations immediately contiguous to this particular area. (Tr. 46, 47.) Wisconsin Gas and Electric Company is to the east of the sector and Wisconsin Power and Light Company to the west.

This case, to our minds, involves a very simple question, in view of the plain physical situation. Here is a territory served by no one. Here is not involved a case of requiring one utility to compete with or criss-cross another. Here is virgin territory. The testimony is indisputable that, as to the area carefully circumscribed by the Commission in its order, absolutely no electric service is rendered therein today *and not even any lines exist therein.* (Tr. 45, 46.)

We say "carefully circumscribed," having in mind that the Commission went so far as not even to direct service to *all* of the forty-seven petitioners but to leave a dozen or so out of the scope of its order. (Tr. 45.) Examination of exhibits (Map, Exhibit 2) shows that these customers were so close to existing Wisconsin Power and Light Company lines as to be included naturally in its territory.

[1, 2] Assuming that the two companies here concerned had agreed to *no* territorial division among themselves, we think it beyond dispute that this Commission has power to order Wisconsin Gas and Electric Company to go into the small segment of territory (constituting only a part of two rural towns), and serve. Wisconsin Gas and Electric Company is right next door and is a public utility, with the obligation to be ready and willing to serve, within reasonable limits.

The question then becomes merely this: Can two utilities, by a contract or understanding between themselves, destroy a power of regulation in this Commission which otherwise exists? We assume that that power of regulation includes the authority to order any privately owned utility to extend into territory *immediately adjacent* to its operations, if the conditions under which the extension is to be made are reasonable, and certainly there can be

no argument as to the creation of any unreasonable operating conditions in the present instance. At least none have been presented.

To restate, then, the issue, it is this: If the Commission has the power to order a given utility to serve a certain group of customers, and that order otherwise would be reasonable, can two utilities get together and, by building respective Chinese walls around each other, *destroy the power of this Commission?* Particularly, can they do this, when the existence to date of these two Chinese walls has left in between a "no-man's land" in which neither utility and none other is serving?

Were we faced with "ruinous competition," that would be one thing. There is at present, however, nothing to compete over but a vacuum.

Counsel for one of the companies objected to a sentence in our original order in reference to a professed "sovereign power of the state to divide territory." We are not by the present order, however, dividing territory. We are not taking over powers of management. We are resorting to the legitimate exercise of public regulation to require service "reasonable and necessary in the interest of the public" (§ 196.58, statutes) and required by "public convenience and necessity" (§ 196.49, statutes).

[3] When our chief counsel brought out the fact (Tr. 46) that Wisconsin Gas and Electric Company today was serving "immediately adjacent" to the territory here involved, counsel for the Wisconsin Power and Light Company showed that the lines of Wisconsin Power and Light Company also were "immediately adjacent" to the same area. That circumstance merely indicates that conceivably the Commission might order either company to serve customers in this area who needed electricity. But (leaving out of consideration the matter of territorial agreement for the present) why has the Commission ordered service by Wisconsin Gas and Electric Company rather than by Wisconsin Power and Light Company?

(1) Because the rates of Wisconsin Gas and Electric Company are lower.

(2) Because it was Wisconsin Gas and Electric Company whom these applicants petitioned for service and it is Wisconsin Gas and Electric Company whose service these farmers want. Incidentally, according to petitioners' testimony, their "trading center" is Fort Atkinson, where Wisconsin Gas and Electric Company maintains a district office, which facilitates servicing of lines, payment of bills, and other incidents of service.

[4] Again, laying aside for the present the matter of agreed upon territorial division, it seems to us that the argument of Wisconsin Power and Light Company that its filed rates must be assumed to be reasonable, under the circumstances, and that its service must be admitted to be adequate, are not conclusive reasons why we should be impelled to order Wisconsin Power and Light Company into the territory rather than Wisconsin Gas and Electric Company. These considerations simply place the two power companies upon a parity as to lawfulness of rates and ability to render service. Then the matter comes to the Commission in the light of what? Of public convenience and necessity, as we have said. And we have

determined that public convenience and necessity weigh in favor of service by Wisconsin Gas and Electric Company; first, because its rates in fact are lower, and, second, because these people *have asked for and want that* company's service and not the other company's service.

What we have said is not to be taken as any reflection upon the latter company. All who are informed as to the conditions surrounding public utilities know that Wisconsin Power and Light Company has more difficult territory to deal with in the state, sparsely settled, less density of electrical use, etc., and is functioning under conditions which do not lead to a rate that can be expected of Wisconsin Gas and Electric Company in its more highly developed and more fruitful territory.

[5] Nevertheless, the situation exists that a certain small group of farmers want Wisconsin Gas and Electric Company service, they can get it more cheaply that way, and Wisconsin Gas and Electric Company is located immediately at hand with facilities ready and able to serve. This spells a case of "public convenience and necessity," as we see it. The fact that Wisconsin Power and Light Company is also in a physical position to render adequate service does not, in our judgment, destroy the public convenience and necessity in favor of Wisconsin Gas and Electric Company rendering the service. "Public convenience and necessity," as we understand it, does not mean indispensability. It means that a reasonable balance of convenience and a reasonable necessity exist as a basis upon which to predicate the Commission's order.

[6] Emphasis naturally is placed by the two companies upon their contract, which provided that the area which we are now ordering Wisconsin Gas and Electric Company to serve, has been set aside by their mutual agreement as belonging to Wisconsin Power and Light Company. Reliance is made upon the McKinley Case. McKinley Teleph. Co. v. Cumberland Teleph. Co. (1913) 152 Wis. 359, 140 N. W. 38.

It must be apparent, however, that all that this case held was that the contract agreeing not to duplicate facilities was, *as between the two utilities,* not a violation of the antitrust law and that the court would compel specific performance by the one contracting party at the instance of the other contracting party. No question of the restriction of the powers of this Commission by the existence of such a contract, was even suggested. The concurring opinion of Mr. Chief Justice Winslow spoke of regulated monopoly being preferable to "ruinous competition" as an element justifying such an agreement despite the antitrust law, in view of the public utility statutes; and the majority opinion emphasized the desirability of "uniting existing facilities, under proper control and regulation, to meet the public convenience and necessity."

We see nothing in the McKinley decision that is controlling over our present action. We are not ordering "ruinous competition." We are not affecting the desirability, if any, of "uniting existing facilities." We are ordering service for certain people who desire it from the company from whom they want to buy it at the price

which relatively is satisfactory to them.

Let it be borne in mind that we are not called upon to issue a *certificate to compete,* under § 196.50, statutes, which involves the certificate of "public convenience and necessity" in its original sense. It may well be that in order to demonstrate "public convenience and necessity" *which warrants duplication of facilities,* much more vital and comprehensive facts would have to be shown than is necessary in the instant case where *no facilities exist* in the area to be served. In competition cases under § 196.50, "public convenience and necessity" again, however, becomes a matter of balance and weighing of economic facts, as here. The principle remains the same but the application to varying states of fact may be different.

We are not unmindful of the limits of our power in this regard. There must be a "rule of reason." We do not expect Wisconsin Gas and Electric Company, in southeastern Wisconsin, to extend its lines 300 miles north to Superior, merely because this company may have cheaper rates where it is. That is where publice convenience and necessity enter the picture again. That is where all the circumstances would have to be weighed in the balance again. Each one of these situations which arise must be disposed of upon the facts of the particular case and public convenience and necessity determined as a fact under the precise circumstances presented.

We find that Wisconsin Gas and Electric Company is serving today in the territory immediately adjacent to the area described in our order of June 16, 1936, as supplemented by order of July 20, 1936.

We find that Wisconsin Gas and Electric Company has the facilities and is able to serve the petitioners residing in the area described in said order.

We find that it is reasonable and necessary in the interest of the public and required by public convenience and necessity that the service, requested herein of Wisconsin Gas and Electric Company by said petitioners, be rendered to said petitioners by Wisconsin Gas and Electric Company and that said company extend its lines into said area for this purpose.

It is, therefore, *ordered,* that our orders of June 16, 1936, and June 20, 1936, be and the same are hereby affirmed.

MICHIGAN PUBLIC UTILITIES COMMISSION

Re Detroit Edison Company

[D-2130.]

Rates, § 389 — Gas — Space heating.

A gas company was permitted to put into effect a rate under which a space-heating customer would purchase gas for all his requirements through

one meter, the net rate being at 50 cents per thousand cubic feet with a net minimum charge of $5 per month for the months November to April inclusive and 75 cents net per month for the months May to October inclusive, billing to be monthly by meter, or at the option of the customer monthly at one twelfth of the company's estimate of the customer's annual bill, with any necessary adjustment on the twelfth estimated bill or the final bill.

[July 17, 1936.]

PETITION *for approval of gas space-heating rates; petition granted.*

By the COMMISSION: On July 13, 1936, the Detroit Edison Company filed with this Commission a petition requesting approval of the space-heating rate for gas which has been in use on an experimental basis with this Commission's knowledge and approval since March 9, 1933.

When the rate was first introduced but five customers were served and the company desired to conduct further experiments to be sure that the rate was commercially successful before making it available to all its customers. The number of customers now served under this rate has increased to nearly thirty and the original plan by which the customers received space-heating gas through a separate meter has been modified so that a space-heating customer will purchase gas for all his requirements through one meter at the space-heating rate.

The company represents that it is now satisfied that the rate is commercially practicable and, therefore, requests permission to file this rate as one of its standard gas rates.

In view of the above the Commission is of the opinion that this rate should now be made available for any customer of the Detroit Edison Company desiring to make use of it and should, therefore, be filed as a part of the company's regular rate schedule.

Now, therefore, it is *ordered* by the Michigan Public Utilities Commission that the following space-heating rate be and the same is hereby approved for the territory served with gas by the Detroit Edison Company effective for service rendered on and after September 1, 1936.

Space-Heating Rate

Character of Service:

Who may take the service: This rate is offered only to customers who do substantially all of the space heating required on their premises with gas. It is offered for space heating only, and not for general purposes, except that a domestic customer may take all of the gas required for the residence under this rate provided that gas is used as the principal fuel for space heating.

Hours of Service: 24 hours.

Rate: 55¢ per 1,000 cubic feet.

Discount: 5¢ per 1,000 cubic feet, for prompt payment.

Minimum Charge: $5.50 per month, less 50¢ per month for prompt payment for the months November to April inclusive and 80¢ per month, less 5¢ for prompt payment for the months of May to October inclusive.

Billing: Monthly by meter; or, at the option of the customer, monthly at 1/12 of the company's estimate of the customer's annual bill. Included with the 12th estimated bill, or the final bill, will be such adjustment as may be necessary to bring the annual estimated bill into agreement with the annual meter bill.

Contract: Number 35. Term: One year and thereafter from month to month until terminated by three days' notice by either party.

It is *further ordered* that the De-

troit Edison Company shall promptly amend its rate schedule now on file in conformity with this order and the rules and regulations of this Commission.

This rate is a voluntary offering by the company and is approved as such by this Commission without passing upon its reasonableness in bringing a fair return to the company.

The Commission retains jurisdiction of the matters herein contained and will issue such further order or orders as the circumstances may require, after due notice to the parties concerned.

FLORIDA SUPREME COURT

L. & L. Freight Lines, Incorporated

v.

W. B. Douglass et al.

(— Fla. —, 169 So. 501.)

Certificates of convenience and necessity, § 113 — Grant to interstate carrier — Prior action by Federal Commission.

A state Commission is not required to grant its own certificate of public convenience and necessity for the interstate operation of motor vehicles in common carriage until after the Interstate Commerce Commission has finally decided the permanent status of the applicant under Federal law.

[July 16, 1936.]

MANDAMUS *proceedings to compel issuance of certificate of convenience and necessity to interstate motor carrier by a state Commission; alternative writ of manadamus denied without prejudice. See also 15 P.U.R.(N.S.) 225, post.*

APPEARANCES: Leo P. Kitchen and Dan R. Schwartz, both of Jacksonville, for petitioner.

DAVIS, J.: While a motor common carrier claiming bona fide benefits of subparagraph (b) of § 206 of the Federal Motor Carrier Act of 1935 (title 49, USCA, §§ 301 to 327, both inclusive, 49 U. S. Statutes 543), to continue its already begun interstate commerce haulage operations until its pending application to the Interstate Commerce Commission for a permanent certificate of convenience and necessity has been heard, considered, and decided pursuant to applicable United States statutes and regulations, possesses a Federal statutory right amounting to a Federal status that is entitled to legal and equitable protection in appropriate litigation (L. & L.

Freight Lines v. Douglass [1936] — Fla. —, 15 P.U.R.(N.S.) 225, *post*, 169 So. 370), yet such Federal right is of transient and temporary character only until the permanent status of the applicant under subparagraph (b) of § 206, *supra* (49 USCA, § 306 (b)), has been duly investigated and finally decided by the Interstate Commerce Commission according to applicable United States law, so there is no duty on the Florida Railroad Commission to grant its own certificate of public convenience and necessity for the interstate operation involved until after the Interstate Commerce Commission of the United States has finally decided the permanent status of the applicant under Federal law.

Therefore the alternative writ of mandamus in this case is denied, without prejudice, however, to the right of the relator to renew its application if and when its permanent status under the Federal 1935 Motor Common Carrier Act has been finally decided.

Whitfield, C. J., and Ellis, Terrell, Brown, and Buford, JJ., concur.

FLORIDA SUPREME COURT

L. & L. Freight Lines, Incorporated

v.

W. B. Douglass et al.

(— Fla. —, 169 So. 370.)

Interstate commerce, § 39 — Powers of state — Motor carriers.

1. The Federal statutory right amounting to a Federal status conferred by the Federal Motor Carrier Act of 1935 upon motor carriers engaged in transportation as common carriers on the date § 206 (b) of the act took effect, entitling such carriers to continue existing operations for a period of 120 days in the absence of any actually issued certificate from the Interstate Commerce Commission, and for an additional period at the discretion of the Interstate Commission, provided application is appropriately made, is paramount to the effectiveness of state statutes or administrative regulations attempted to be enforced to the contrary, in so far as the Federal status and the state status may appear to be in conflict, p. 226.

Injunction, § 52 — Burden of proof — Federal status of motor carrier — Restraint on state officials.

2. A motor carrier claiming a Federal status under the Federal Motor Carrier Act of 1935 is not entitled to an injunction restraining state officers from enforcing a state statute applicable to it in the absence of a clearly established Federal right to which the official acts of state enforcement officers must yield submission in the premises, unless such carrier not only pleads in an appropriate bill of complaint, but also duly establishes by competent proof, its Federal status under the Federal Motor Carrier Act, p. 227.

(BROWN, J., dissents in part.)

[June 26, 1936. Rehearing denied July 16, 1936.]

EN BANC. APPEAL *from interlocutory order denying restraining order against State Railroad Commission; constitutional writ dissolved, and judgment of appellate court entered in accordance with opinion. See also 15 P.U.R.(N.S.) 224, ante.*

APPEARANCES: Leo P. Kitchen and Dan R. Schwartz, both of Jacksonville, for appellant; Theo T. Turnbull, of Tallahassee, and Claude Ogilvie, of Jacksonville, for appellees; W. J. Oven, of Tallahassee, and Doggett & Doggett, G. A. K. Sutton, and Milam, McIlvaine & Milam, all of Jacksonville, *amici curiæ*.

DAVIS, J.: The bill of complaint in this case, as amended, is sufficient to present a justiciable controversy arising under the Federal Motor Carrier Act of 1935 (49 USCA, §§ 301 to 327, both inclusive, 49 U. S. Statutes, 543), particularly § 206 (b) thereof (49 USCA, § 306 (b)) but the particular appeal before us now is from an interlocutory order of the circuit court of Leon county entered April 15, 1936, denying an application for a restraining order against the appellees, Florida Railroad Commissioners, their agent and representatives, with reference to the enforcement of a state statute.

In aid of and incident to the appeal, we granted a modified constitutional writ of injunction pending final hearing of the appeal, pursuant to an application of appellant therefor under § 5 of Art. 5 of the state Constitution. See Anderson v. Tower Amusement Co. (1935) 118 Fla. 437, 159 So. 782. Subsequent thereto the cause as brought here on the record was advanced on the docket and argued and briefed at length for an early decision on the merits of the appeal itself.

[1] A Federal statutory right amounting to a Federal status was undoubtedly conferred by the "Federal Motor Carrier Act of 1935" upon all motor carriers engaged in transportation as common carriers on the date § 206 (b) of the act took effect. The Federal status so conferred entitles such motor carriers to continue their existing operations thereafter for a period of 120 days, absent any actually issued certificate of public convenience and necessity from the Interstate Commerce Commission, and for an additional period at the discretion of the Interstate Commerce Commission, provided application is appropriately made by them in due course to the Interstate Commerce Commission for a proper certificate within the prescribed statutory period allowed for making such applications. See § 206 (b), Federal Motor Carrier Act of 1935.

Such Federal right and Federal status, when clearly shown to exist, is paramount to the effectiveness of state statutes or administrative regulations attempted to be enforced to the contrary, in so far as the Federal status and the state status may appear to be in conflict.

The clearly discernible purpose of the Congress was to vest in the Interstate Commerce Commission, as a fact-finding body, and not initially in

the state or in the Federal courts, the ultimate authority to investigate and to decide in due course of administrative procedure which motor carriers may have brought themselves as a matter of law and fact within the scope of the protective provisions of the Federal Motor Carrier Act of 1935, in so far as the Federal status *vel non* of particular operations might appear to be in controversy and require decision upon such status as a condition to their continuance of operations in interstate commerce. This is so as applied to operations commenced prior to June 1, 1935, as well as to new operations inaugurated intermediate the period of August 9, 1935 (the date the Federal statute was enacted and approved), and the subsequent date upon which its provisions, by its terms, may be deemed in contemplation of law to have taken effect with reference to the subject matter of any particular application filed with the Interstate Commerce Commission and asserted under the terms of Federal law.

But, pending a factual decision by the Interstate Commerce Commission on the issue involved in a pending application, it is within the province as well as the duty of state courts, as well as the Federal courts, to protect by injunctive relief the temporary privileges and benefits conferred *ex proprio vigore* by the "Federal Motor Carrier Act of 1935," upon all such motor carriers as may make it clearly to appear by appropriate allegations and proof that they are entitled to enjoy, and to enjoy free from unwarranted interference at the hands of state law enforcement officials acting under purported authority of state statutes, with reference to any matters that have been superseded in part by provisions of Federal law operating in derogation thereof with respect to the privilege of doing a motor carrier business in interstate commerce subject to the supervisory powers of the Interstate Commerce Commission as to the nature, character, and extent of the privilege permitted by the Federal law to be exercised.

[2] But in the present case the asserted Federal right claimed by appellant, while appropriately alleged, has not been made clearly to appear by proof submitted sufficient to overcome the allegations of the appellees' answer joining issue with appellant's allegations as to the lawful inauguration of any such actual operation at all as that contended for in appellant's bill of complaint, as amended, but denied by the answer.

Appellant has, as yet, obtained no factual recognition of its alleged status under § 206 (b) from the Interstate Commerce Commission.

Its claim, while predicated on the terms of a United States statute, is therefore such as must be not only pleaded in an appropriate bill of complaint, but duly established by competent proofs before it is entitled to injunctive relief, either interlocutory or final, in the state courts as against the asserted rights of state officers to continue their enforcement of a state statute otherwise applicable to it in the absence of a clearly established Federal right to which the official acts of state enforcement officers must yield submission in the premises.

The present appeal demonstrates no error in the order appealed from

within the rule of this opinion. So that order will be affirmed, but without prejudice, however, to the right of appellant to proceed to a final hearing on the issues now joined, or which may hereafter be joined, between the parties on the pleadings now pending or on such amended pleadings as may be filed, and thereupon have such final decree rendered in the cause as may be not inconsistent with the holding of the opinion and may otherwise be in accord with law and justice in the premises. The constitutional writ heretofore issued will stand dissolved upon the issuance of the mandate.

Judgment of appellate court entered in accordance with opinion.

Whitfield, C. J., and Ellis, Terrell, and Buford, JJ., concur.

BROWN, J. (dissenting in part): It seems to me that the opinion and order of the United States District Court for the Northern District of Florida (14 F. Supp. 399) November 7, 1935, in a similar proceeding between these same parties, was well considered and sound, and is conclusive of the question here presented. I doubt whether the bill as amended presents a justiciable question under the holding in that decision.

UNITED STATES DISTRICT COURT, N. D. GEORGIA, ATLANTA DIVISION

Georgia Power Company

v.

Tennessee Valley Authority et al.

[No. 126.]

(14 F. Supp. 673.)

Monopoly and competition, § 25 — Rights of existing utility — Objection to Federal power project.

1. An electric utility company having a franchise to do business in a state but having no monopoly has a standing to question the right of a Federal power authority to operate there if such authority has no lawful right, although it cannot object to competition by a membership corporation chartered by the state to do such a business, p. 232.

Trespass — Right of way — Wires.

2. No trespass is shown by the crossing of a power company's right of way by the wires of a Federal power authority, since the owner of the land can still use his land in any way that does not obstruct the easement that he has granted, and can grant to the power authority the right to run wires over or under the company's wires in a safe and proper way, p. 232.

Trespass — Proper party to object — Wires crossing railroads and highways.

3. A power company cannot complain that the crossing by transmission

lines of a railroad and highways, title to which is in the state, is a trespass, p. 232.

Procedure, § 14 — Scope of proceedings — Necessary parties — Activities of Federal power authority.

4. Whether a Federal power authority rather than a coöperative association and municipalities, by retailing power to individual consumers, will be subject to rate regulation by a state Commission and whether if the power authority wholesales power to such a coöperative organization and municipalities under contracts which undertake to fix the rates to consumers, such rates will be governed by the contracts or by action of the state Commission, are questions that must wait until they take concrete form with all interested parties before the court and are not to be disposed of on an application by an electric company for an injunction restraining activities of the Federal power authority in the construction of lines, p. 232.

Federal power authority — Right to engage in business — Question of interstate commerce — Sale of surplus.

5. The activities of a Federal power authority in selling electric power rest on the constitutional right of the United States to dispose of their property, and the question whether interstate transmission of electricity is interstate commerce and its local distribution domestic commerce is immaterial in determining the legal scope of such activities, since the Federal power over interstate commerce is to regulate it, not to engage in it, p. 232.

Federal power authority — State consent to operation — Proper party to raise question.

6. A power company cannot object to operations by a Federal power authority, on the ground that the state where the operations are conducted has not consented, when the state itself is not objecting, p. 232.

Federal power authority — State consent to operation — Necessity.

7. The power of the United States through a Federal power authority to dispose of electricity generated at a government dam and not needed for governmental purposes is not limited to cases in which the state where such activities are conducted has given its consent, p. 232.

Discrimination, § 206 — Choosing of customers — Federal power authority.

8. Operations of a Federal power authority are not contrary to law on the ground that the authority chooses its customers and gives preference to states, counties, municipalities, and coöperative organizations not organized or doing business for profit, p. 233.

Federal power authority — Construction of lines — Interchange of current.

9. The building of electric lines by a Federal power authority whether for its own use or for transfer to a state membership corporation was held to be within its lawful power, and the fact that for the present they would be fed by current interchanged with a private power company was held to be no objection, the interchange being a mode of sale, p. 233.

Federal power authority — Congressional powers — Powers of courts.

10. Whatever limits there may be as to the ways in which electricity may be disposed of by a Federal power authority are for Congress to consider, since those of power alone are for the courts, p. 234.

INJUNCTION suit by an electric utility corporation to restrain construction by a Federal power authority and others; preliminary injunction refused.

APPEARANCES: Colquitt, MacDougald, Troutman & Arkwright and Harlee Branch, all of Atlanta, Barry Wright, of Rome, and Grady Head, of Ringgold, for complainants; James Lawrence Fly, William C. Fitts, Jr., and Julian C. Chambers, all of Knoxville, Tenn., for defendants TVA.

SIBLEY, Circuit Judge: The original bill removed from a state court seeks to enjoin Tennessee Valley Authority and Catoosa Farmers Cooperative Association, as trespassers, from putting wires for transmitting electricity above and across the wires of petitioner, to enjoin them and certain individuals from making false and fraudulent representations about the petitioner's business, and from attempting to organize a boycott of it. An amended bill seeks to enjoin the TVA from constructing any transmission or distribution lines in Georgia, especially any over state properties or highways to do a business in competition with petitioner, and to enjoin the other defendants from purchasing power from TVA; and for a declaration that the attempted business in Georgia of TVA is illegal, as being beyond any authority conferred on it by Congress and beyond Federal constitutional power. The general contention is that TVA has no source of power in or near Georgia, and intends to purchase power from Tennessee Electric Power Company and distribute it in Georgia without the consent of the state and without submitting to the jurisdiction of the Georgia Public Service Commission or the payment of taxes, and that it is seeking unlawfully to take away the customers of petitioner, such activities being beyond the power given by Congress and beyond the power of Congress to give. The Tennessee Valley Authority alone has answered. Besides denying most of the allegations concerning it, it asserts that it is selling surplus power arising at Wilson dam, but expects in a few years to have more arising at other dams nearer to Georgia; that the northwest Georgia territory here in question was refused service by the petitioner, Georgia Power Company, until TVA was approached by towns and farmers therein to sell them electric current and TVA agreed to furnish it, when activity of petitioner first began in the rural section; that the line under construction is to be fed temporarily by exchange of current with Tennessee Electric Power Company as already arranged for, but ultimately by lines of TVA connecting directly with its dams. The line is to be turned over to North Georgia Membership Corporation, a nonprofit coöperative association, so soon as the latter, already chartered, shall be organized, under a long-time purchase contract. It admits that it claims not to be subject to taxation or regulation by the state of Georgia, but denies that it has attempted or authorized any interference with petitioner's contracts

with customers or sought to organize any boycott against it or trespassed in any manner upon its property or rights.

Findings of Fact

The evidence is in many points incomplete and unsatisfactory. The answer is not sworn to and operates only as pleading. The facts can be stated only tentatively and for present purposes. Georgia Power Company has a franchise to make and sell electric power throughout the state, has made a large investment, and has given good service at low rates compared to many others. It has not an exclusive franchise, but there are other companies operating in parts of the state and all are subject to competition. Rates to consumers are fixed by the Georgia Public Service Commission and cannot be departed from except by leave of the Commission. The Georgia Power Company has been and is rendering service to a number of towns in the northwest part of the state, but had declined before 1935 to put in rural lines there. During 1935 individuals and towns in that territory sought to get electric current from TVA, which consented to supply them. After this the power company became active in extending its lines, and there has arisen an acute and even bitter rivalry touching which source of power shall be used. It is probable that untrue statements have been made and unfair efforts to upset rights of way and service contracts by persons on both sides, but the evidence does not establish authorization or knowing ratification by the power company or by TVA. As to the crossing of the transmission lines, the Georgia Power Company has a first-acquired right of way easement over the lands of one Russell and first erected its line. The easement is not expressed to be exclusive. Russell later gave a similar easement to TVA crossing the former. There is a contention that the crossing really takes place over an old roadway, the title to which is in the United States, but the evidence is not clear that this is true. There will be no actual interference by one wire with the other if they are properly installed and maintained. The wires of TVA have been put across the Western & Atlantic Railroad, which belongs to the state of Georgia, and across certain highways owned in fee by the state without asking the state's consent but without objection being made. Rights of way have been obtained as to all privately owned land. The Tennessee Valley Authority has surplus current at Wilson dam and an arrangement for delivering it to Tennessee Electric Power Company there in exchange for like amounts of current less transmission losses at Oultawah, Tenn., at which point the TVA transmission line in Georgia ends. There is no proper proof of TVA's future intention as to other dams and transmission lines, but it is likely that they are as set forth in the answer. There is evidence that the North Georgia Membership Corporation has been chartered under Georgia laws to buy and operate the lines under construction by TVA and to distribute to rural customers electric currents at rates and on conditions to be named by TVA. The contract contemplated is described as "a standard power contract," which seems to mean one not

only putting the fixing of consumers' rates at the discretion of TVA, but also the financial management of the membership corporation. The rates hitherto fixed by TVA for resale to consumers have been materially lower than those fixed for the Georgia Power Company by the Georgia Public Service Commission. TVA also contemplates furnishing current to the city of Dalton and other municipalities when their contracts with Georgia Power Company shall expire and when a *modus vivendi* between the two runs out a few months hence.

Conclusions of Law

[1–3] The Georgia Power Company has a franchise to do the business involved in the territory in question, but it has no monopoly. It cannot object, for example, to competition by North Georgia Membership Corporation also chartered by the state to do such a business. But its franchise exercised by it in the territory does give it a standing to question the right of TVA to operate there if TVA has no lawful right. Reserving for the present the question of TVA's right, I hold that no trespass is shown by the crossing of the Georgia Power Company's right of way by the TVA wires. The landowner Russell in giving Georgia Power Company a right of way to string wires across his land could still use his land in any way that did not obstruct the easement he had granted. He could run telephone or other wires of his own over or under the power company's wires in a safe and proper way without the consent of the latter. He could also grant to TVA the right to do so. If there should be interference, of course, the latter easement will have to yield to the older one. Whether the crossing of the railroad and highways, title to which is in the state of Georgia, be a trespass or not is a thing of no interest to Georgia Power Company. It cannot complain of that.

[4–7] Whether if TVA rather than North Georgia Membership Corporation and the several towns shall be found retailing power to individual consumers, it will be subject to have its rates fixed by the Georgia Commission, and whether if TVA wholesale power to the Membership Corporation and the towns under contracts which undertake to fix the rates to consumers, such rates will be governed by the contracts or by the action of the Georgia Public Service Commission, are questions that must wait until they take concrete form with all interested parties before the court. The great question which now presses for decision is whether TVA is so clearly without statutory or constitutional authority to do what it is about to do in Georgia as that it should be halted in its tracks. There has been some argument that interstate transmission of electricity is interstate commerce, but its local distribution is domestic commerce, but I think the matter immaterial. The Federal power over interstate commerce is to regulate it, not to engage in it. TVA gets no help from that source. Its activities in selling electric power as pointed out in Ashwander v. Tennessee Valley Authority (1936) 297 U. S. 288, 80 L. ed. 688, 56 S. Ct. 466, rest on the constitutional right of the United States to dispose of their property. That deci-

sion settles that electric energy generated at Wilson dam and not needed for governmental purposes may be sold under authority of Congress, and that to effect sale transmission lines may be bought or built to a market for it, and this was held although evidently the contemplated sale was not a transient or casual one, but a continuous operation amounting to a business. Several distinctions are here urged. One is that the state of Alabama had there consented to what was done and here Georgia has not. But Georgia is not objecting, and the Georgia Power Company cannot object for it. And I cannot conceive that the power of the United States to dispose of their property, assented to by Georgia in ratifying the Constitution, contemplates that the permission of a state must be had before Federal property can be disposed of within it.

[8, 9] A better point is urged that the disposition here attempted is a continuous effort to control the price of electric power in Georgia through a congressional commission, the TVA, rather than through the Georgia Public Service Commission, and that this is to undermine and subvert a legitimate function of the state and to upset its arrangements for the welfare of its citizens and its power producers. Despite the breadth of the constitutional provision for disposal of Federal property and of the discretion of Congress necessarily consequent, it is to be implied that Congress will not needlessly embarrass or injure the functions of the state. I do not therefore think TVA could be authorized to do all that it is charged with intending to do. Nor do I think it has been so authorized. Section 10 of the Tennessee Valley Authority Act of 1933, as amended, 16 USCA § 831i, authorizes the sale of surplus power according to the policies therein set forth by contracts not exceeding twenty years, giving preference to states, counties, municipalities, and coöperative organizations not organized or doing business for profit. A policy is expressed of promoting the use of electricity on farms within a reasonable distance of transmission lines, and of constructing transmission lines to farms and small villages not otherwise supplied with electricity at reasonable rates. Thus to encourage the development of a new market for electricity rather than to invade an old one seems to be most considerate of existing interests and not of any detriment to the state. That the new market is small and not immediately profitable to the seller of electricity is for the consideration of Congress. The policy of selling by preference to those who through middlemen pass all profits to the consumer does discriminate against most power companies, but it seems to me to be within a seller's right to choose his customers. Power companies are not altogether ruled out. The provisions of the section which authorize the TVA to make rules and regulations about the distribution of power sold and rates for the resale of it go beyond the usual rights of a seller, and may on a proper challenge be found unreasonable in themselves or in their exercise, but their failure would not nullify the entire act. The lines which TVA is now building whether for its own use or for trans-

fer to North Georgia Membership Corporation are within its lawful power. That for the present they will be fed by current interchanged with Tennessee Electric Power Company is no objection. The interchange enables TVA to sell its power at Wilson dam which otherwise would go unsold. The interchange is a mode of sale.

[10] After the World War, the United States had vast amounts of surplus property of general utility and sold it in various ways at wholesale, in job lots, and even at retail in such markets and to such customers as seemed proper. No attempt, however, was made to open a retail store to be run for years with a constantly replenished stock, paying no taxes or license fees. The Federal penitentiaries are full of human and economic values going to waste, and there is earnest effort to employ usefully the inmates. The things thus produced as a by-product of fumbling human justice can be sold if not used by the United States, but the Congress has always been solicitous to avoid competition with outside producers. The United States have purchased vast forest reserves in order to control floods and promote navigation, and inevitably trees grow in them. These need not be left to die and rot, but may be sold, and no doubt a railroad may be built to carry them to a market, but one would doubt that Congress could establish planing mills and chair factories in our cities under guise of selling its timber. These illustrations suggest that there must be limits as to the ways in which electricity may be disposed of. The limits of decency are for Congress to consider. Those of power alone are for the courts. I cannot say that any limit of power has yet been transgressed by TVA in this case.

Preliminary injunction is accordingly refused, but with leave to either party to apply further in case of any future fraudulent or false statements to present or prospective customers made by the authority or connivance or encouragement of the other, or of any wrongful attempt by either party to induce customers or grantors of rights of way to break their contracts, or to organize any illegal boycott.

NORTH CAROLINA UTILITIES COMMISSION

Lloyd Henson et al. Stockholders of Pisgah Mutual Power & Light Company

v.

Hominy Power & Light Company, Inc.

[Docket No. 600.]

Corporations, § 7 — Commission jurisdiction — Stockholders' rights.

The Commission is without authority to adjudicate the rights of various

stockholders of an electric utility corporation involving rights and equities between themselves and between the stockholders and promoters of the corporation, since such matters are purely within the jurisdiction of a court of law.

[August 27, 1936.]

COMPLAINT *by stockholders against electric utility corporation; dismissed.*

WINBORNE, Commissioner: This matter came before the Utilities Commissioner for hearing and was heard in the offices of the Commission in the city of Raleigh on the 5th day of May, 1936.

The complainants were represented by W. H. Hipps, Attorney at Law, Asheville, and the respondent, Hominy Power & Light Company, was represented by Donald C. Young, Attorney at Law, Asheville.

Mr. Lloyd Henson for himself and other stockholders of the Hominy Power & Light Co., formerly known as the Pisgah Mutual Power & Light Co., filed complaint alleging that the Pisgah Mutual Power & Light Co. was first organized by a group of citizens of Upper Hominy township, of Buncombe county, for the purpose of providing electricity for the vicinity known as South Hominy, in said township; that in the organization of said company, which was a mutual affair, one Pete Hudson made certain promises and representations as to the giving of his individual property as a guaranty that service rendered would be adequate and as an inducement to get other parties to invest their funds in said enterprise; that said Hudson failed to comply with his agreement and keep his promises and, upon later investigation by the stockholders who had been induced to subscribe for stock in said company by reason of the said representations of the said Hudson, discovered that there was no record and no contract signed by the said Hudson, guaranteeing adequate service, and that said service was not now, and had never been, adequate.

The Hominy Power & Light Co., in its answer, denied the allegation of the complainants, except the formation of the Pisgah Mutual Power & Light Co. and asserted that the said M. L. Hudson and wife did enter into a binding contract with the said company, in which it was provided that a small tract of land belonging to said Hudson was to be used by the said Hudson for the purpose of generating electric current, which was to be sold at rates therein provided; that the complainants had full knowledge of said contract and that same was read and explained to the stockholders; that later the water-power plant proved inadequate and in January, 1935, the said stockholders and the said Hudson purchased a larger tract of land that had greater power possibilities and constructed thereon a concrete dam and erected a large power plant at a cost of several thousand dollars, which was connected with the lines of the power company. That the Pisgah Mutual Power & Light Co., being a coöperative organ-

ization and having in its organization agreement certain limitations as to the amount of stock any one person might own, made it impossible to get sufficient funds to provide adequate service and, in order to eliminate this handicap, the Hominy Power & Light Co. was organized in April, 1935, and all of the properties of the Pisgah Mutual Power & Light Co. were acquired by the Hominy Power & Light Co. and are now owned by it; that the purchase of said properties was approved by all of the stockholders of the Pisgah Mutual Power & Light Co., except one, and that new stock in the Hominy Power & Light Co. was issued to the stockholders of the Mutual Company and accepted by all of the said stockholders, except one.

Voluminous testimony was offered at the hearing as to the adequacy and inadequacy of the service and as to the representations and misrepresentations made as to the stock and as to the dissatisfaction of some of the present stockholders with the management of the company and the failure of the officials of the company to live up to and comply with agreements which were made at the time the Hominy Power & Light Co. was formed.

This case and the petition of the Hominy Power & Light Co. for a certificate of public convenience and necessity, which latter case has already been disposed of by this Commission in its order of June 9, 1936, in Docket No. 732, were overlapping, in that in both cases the questions of adequacy of service and the susceptibility of making the service adequate, were gone into at great length and, in the case wherein order was made on June 9, 1936, this Commission found that adequacy of service could be established, provided the improvements were made as the result of obtaining a loan from the government and, therefore, granted to the said Hominy Power & Light Co. a certificate of convenience and necessity and authorized the borrowing from the Rural Electrification Administration the sum of $15,000 for that purpose.

The only question now involved in this case, which has not been passed upon, is that of rights and equities between the stockholders themselves and between the stockholders and promoters of the corporation. These disputes seem to have arisen more in reference to the disputed agreements alleged to have taken place between the said Hudson and the stockholders of the Pisgah Mutual Power & Light Company. But whether they were or not, this Commission is of the opinion, and so finds, that it has no authority to adjudicate the rights of the various stockholders and that that is a matter purely within the jurisdiction of a court of law.

Wherefore it is *ordered*, that this case be and the same is hereby dismissed.

For SURE *Centralized* VALVE CONTRO

Step up the efficiency, lower the operating costs of your new projects, by giving them *centralized* finger-tip valve control. With Chapman Motor Units one man can control every key valve in an entire plant, pumping station or city-wide water system —from a single electrical control board.

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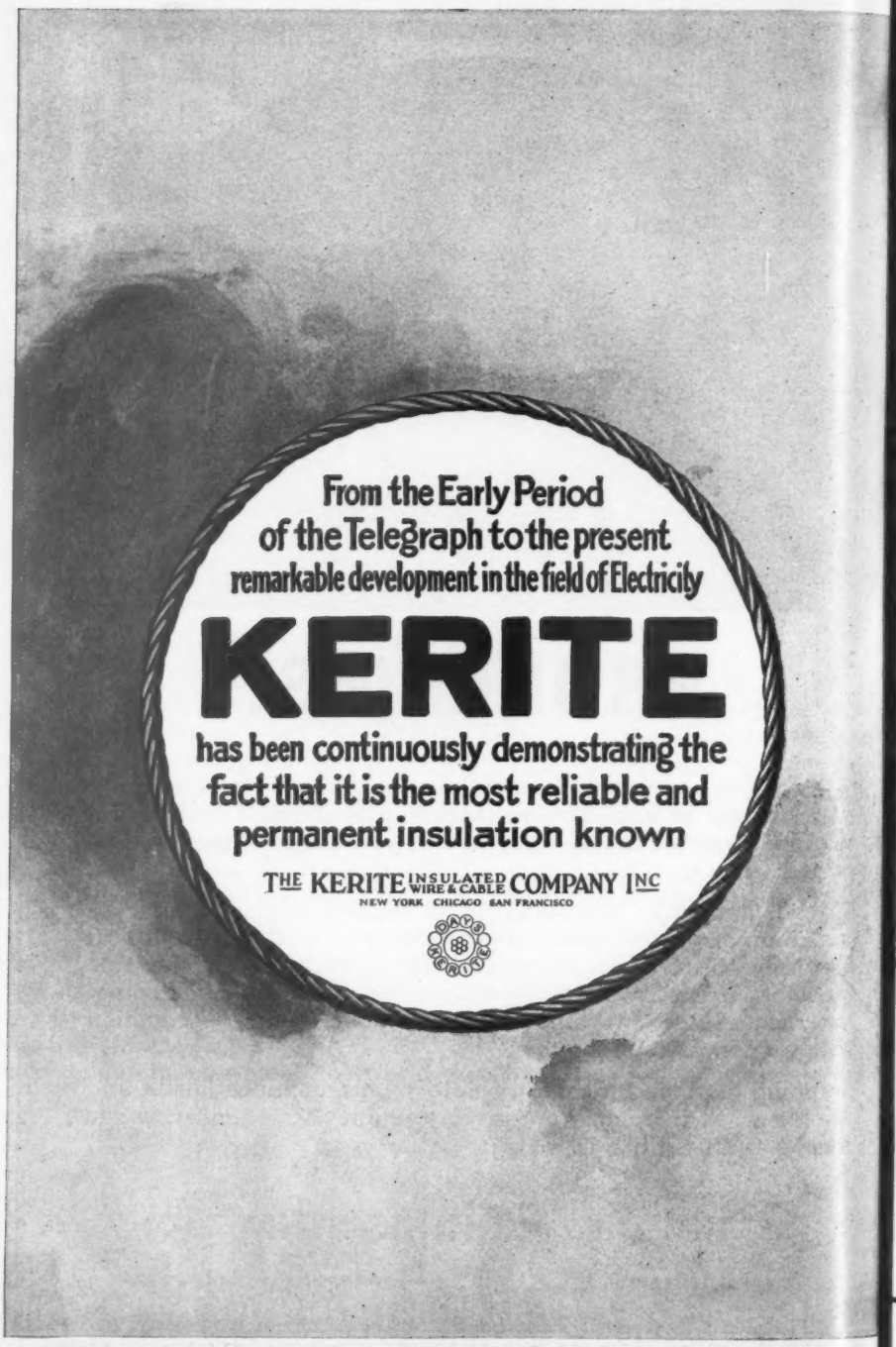

Pennsylvania's Page

No. 16—Nov. 5, 1936

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Pennsylvania Transformers have the basic qualities which insure the MAXIMUM in service, economy and safety, because . .

Coils are *circular*—not rectangular—so that they withstand short circuits without distortion.

Coils are of the *open* type, similar to power transformers—instead of the ordinary closed type.

Coils are treated in *varnish*—not compound—and therefore will not soften under high temperature nor contaminate oil.

Coils, due to open type construction, have a *low temperature gradient* between copper and oil—a feature which permits greater overloads with perfect safety!

Coils are treated at a temperature limited to 105°C (the maximum permitted by A. I. E. E.), thus assuring a *permanently safe* and pliable insulation.

High-tension and low-tension bushings are bolted from the exterior of case, eliminating necessity for handling tools on inside.

The transformer insulation is properly co-ordinated with the flash-over of the bushings, thus providing necessary surge-resisting qualities.

The transformer is so designed that radio interference is reduced to a minimum.

These are fundamental improvements which result in transformers of longer life, greater reliability and lower maintenance costs. They are worthy of your careful analysis and consideration before placing your contract for next year's requirements.

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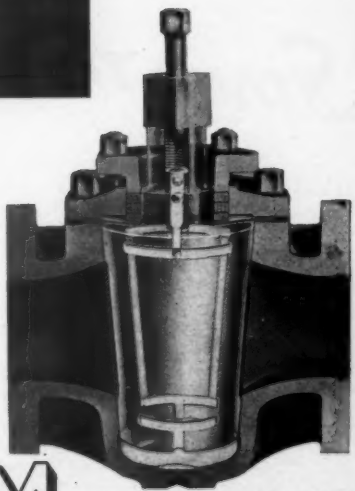

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No weak spots fo corrosion to attack The Bethanized Wir can be wrapp around its own diam eter without breakin or flaking its corro sion-defying zin coating.

NOW—at no extra cost

CHAIN LINK FENCE THAT CAN

STAND THE WRAP!

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Think what that means. An Anchor Fence of Bethanized Wire is a fence with no flaws in its pure zinc armor —no cracks or crevices through which corrosion can creep in. Because Bethanized Wire can *"stand the wrap,"* these Anchor Fences stand up for many years beyond the lifetime of any other chain link fence—even in industrial atmospheres that are heavy with soot, salt, sulphur and other corroding agents. And now there's no premium—no extra cost—for Bethanized Wire.

Send for the free book of facts about these better looking, longer lasting Anchor Fences—and about Anchor's nationwide sales and erecting service. Write today—to the address below.

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*Get into this cavalcade of K.W.H.**

Manufacturers of

HOUSE TRAILERS

are making the electric meters' wheels go 'round

Almost overnight, America has become perambulatory, bringing into being a new and giant industry . . . the house trailer business. Using steel for strength and arc welded construction for rigidity, light weight and economy, trailer manufacturers are thriving. And their electric meters are spinning in tune with the sizzling hot arc . . . faster and faster.

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Let us acquaint you further with these markets which now warrant sales effort. THE LINCOLN ELECTRIC COMPANY, Dept. YY-318, Cleveland, Ohio. Largest Manufacturers of Arc Welding Equipment in the World.

** Every pound of electrodes requires 1.75 kilowatt hours. The average welder uses 5,000 to 10,000 lbs. of electrodes per year.*

Free Instruction for Power Salesmen

In several cities, the local Lincoln engineers are contributing their services to the instruction of power salesmen, periodically, in the various phases of arc welding application. These blackboard talks give the salesmen sufficient knowledge of arc welding so that they can discuss it intelligently with prospects. Are you interested in securing this service? Just get in touch with our main office in Cleveland, Ohio.

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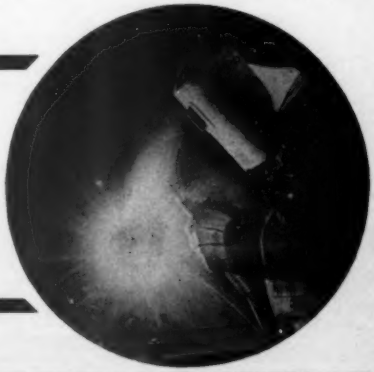

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One engineer of gas and water distribution states: "We have been using a BARCO Hammer for twelve months and during that time have found it a splendid piece of equipment that will meet every requirement as advertised."

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Because it is compact and requires no cumbersome auxiliary equipment the BARCO Hammer can be operated on street right-of-way without blocking traffic.

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GIMBELS, PITTSBURGH:—*View of street floor, after installation of new Pittsburgh Luminaire No. 5025. Intensity on merchandise tripled—no glare—reveals fully this spacious and beautiful interior.*

LUMINAIRE NO. 5025

Gimbel Bros. Department Store at Pittsburgh is one of those progressive establishments who firmly believe in the value of good lighting as an aid to bigger sales.

In a recent newspaper advertisement, they say of their new lighting: "Proper lighting is a science, you all know. Now you can see how helpful this science is to you . . . in the absence of glare, in the ease of matching color, the determining of the exact shade you wish, in the pleasant, restful atmosphere which Gimbels' modern system provides."

Luminaire No. 5025 is primarily a direct lighting fixture, but has a slight indirect component, sufficient to illuminate the ceiling, as well as the exterior surface of the upper bowls of the fixture itself. The bottom member is equipped with a concentric louver, which hides the light source, thus preventing glare.

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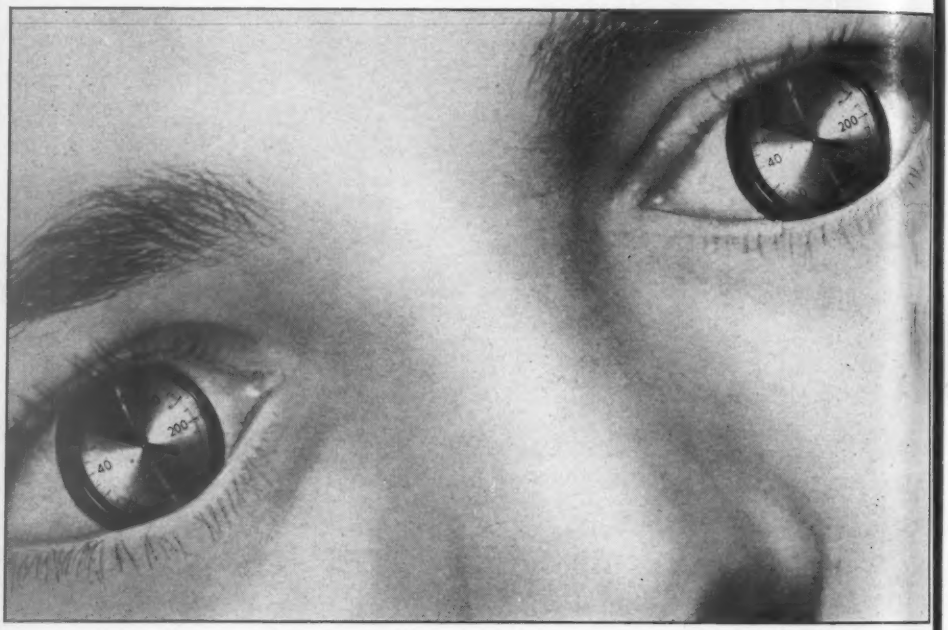
OLIVER BUILDING "Pittsburgh" Permaflector **PITTSBURGH, PA.**

See the exact temperature through these "EYES" . . .



Through Taylor Dial Thermometers read clearly . . . accurately . . . unfailingly . . . the temperature-picture at important points in power production

WHERE no permanent record is needed . . . where no comparison of temperatures during a twelve or twenty-four-hour period is desired . . . but where there must be a constant check on temperatures, use Taylor Dial Thermometers to watch them for you.

Taylor Dial Thermometers meet exacting demands for accuracy, durability and long service. They are simple and sturdy in design, and are the product of craftsmen who combine knowledge of industrial and scientific needs with superlative skill in construction.

The Mercury-Actuated type of thermometer is particularly designed for use where operating conditions are severe. It is efficient anywhere within limits of minus 40° F. and plus 1000° F.

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Because of the fine accuracy and unusual durability of all Taylor Dial Thermometers, users find that it is worth while to standardize on them throughout their plants. Discuss their use with a Taylor Representative, as we hope you will talk over any of your problems of temperature, pressure or flow control. See him about details on Taylor indicating, recording and controlling instruments and on Taylor Control Systems specifically for use in Power Plants and in the distribution of power. Taylor Instrument Companies, Rochester, N.Y., or Toronto, Canada. Manufacturers in Great Britain—Short & Mason, Ltd., London, England.

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Have you likewise considered the by-products you create from the simple process of increasing the percentage of your purchases from certain manufacturers?

When you place your business with a manufacturer who has built up—over a long period of years—the personnel, the will, and the facilities to do research and development work, you obtain the most profitable of by-products, namely, progress in the generation, transmission, and distribution of electric power. This progress, in turn, enables you to make steady improvement in electrical service and to lower its cost. Likewise, when you buy from the manufacturer who has led all others in load building, you enhance his ability to extend the use of electricity, and so increase your revenue.

Thus, for every dollar you invest in G-E equipment, you receive a full dollar in equipment value—plus valuable by-products of research, engineering, and load building that make your purchases of G-E apparatus the most profitable investment for your equipment dollar.

56-284B

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Two words hold an outstanding place in popular discussions of the times in which we live.

Much has been said about *labor* and much about *capital.*

But all too little has been heard about *management,* which puts overalls on both capital and labor.

Both would suffer if those individuals who have the peculiar gift of enterprise did not create opportunity for both to work.

Yet the manager seems to be the forgotten man today.

How many of these managers do we have in America? 606,000 men direct the nation's industries, 1,700,000 market the things the factories make. As population goes, this group is small, about 2% of all of us. But it is the nation's most important natural resource.

Why so important? What does a manager do? He discovers new things to build by anticipating the needs and desires of the rest of us. He knows how to make old things attractive. He persuades savings to join him in the venture. Manages to put teamwork into production, selling, financing, deliveries. He is the leader of the band.

Where do these managers come from? They are recruits from every walk of life, men who have won their way to the top by proving they have a talent for finding productive work for others to do. They *know how* to run a business on a basis which brings in enough to meet payrolls and pay the bills.

The most precious thing in America is the spirit of enterprise which management supplies—for the job these men who head up business are doing has given this country the highest standard of living in the world.

Isn't it time to quit talking about this land of ours as if it were split into hard and fast "classes," and to think of it for what it really is, the greatest spot on the globe, if not the only one, where classes do not really exist, but all, under the direction of management, pull together for the greatest good of the greatest number.

Where do business leaders come from?

Of 140 railroad presidents more than 100 came up from the ranks; half the bank presidents of New York City came from the Middle West and the farms; most utility operators came up from a lineman's job.

And so it is in all industries.

Among the 176 executives responsible for the management of 95% of the steel industry's present capacity, nine out of ten rose from the ranks.

The management of America's business today is in the hands of men who came from every walk of life—men who exercised the American right of every man to progress as far as his ability will take him. This American tradition must be preserved for the citizens of tomorrow.

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—a magazine devoted to interpreting business to itself, and bringing about a better understanding of the intricate relations of government and business. The facts published here are indicative of its spirit and contents. Write for sample copy to NATION'S BUSINESS, WASHINGTON, D. C.

INDEX TO ADVERTISERS

(Concluded on Page 88)

INTERCHANGEABILITY

DETERIORATION ... *merciless as a hungry tiger*

Trident and Lambert Water Meters, Split Case Type — for installation where frost is not apt to cause damage. These Meters also made in Frost-Proof Type, with Breakable Bottom that protects against damage due to expansion in freezing.

Deterioration is caged, helpless to raven and destroy, by the principle of Interchangeability upon which Trident and Lambert Water Meters always have been designed and built. No matter how old they are, worn parts can be quickly replaced by interchangeable *new parts* embodying past (and future) improvements. Neither change nor improvements make Trident or Lambert Water Meters obsolete. A splendid investment . . . Quality meters, time-tested for sustained accuracy, minimum maintenance cost. A type for every purpose. Neptune Meter Company (Thomson Meter Corp.), 50 West 50th Street (Rockefeller Center), New York City . . . also . . . Neptune Meters, Ltd., Toronto, Canada.

OVER 6 MILLION

Trident

AND LAMBERT WATER METERS MADE AND SOLD THE WORLD OVER . . . .

INDEX TO ADVERTISERS (Concluded)

PROFESSIONAL DIRECTORY

• This page is reserved for engineers and engineering concerns especially equipped by experience and trained personnel to serve utilities in all matters relating to rate questions, appraisals, valuations, special reports, investigations, design and construction. « «

Helping Industry to

"Get along with folks"

TODAY, everybody can see *what* Business is doing. Few know *why*. Therein is the reason for much of the misunderstanding and antagonism currently evinced against business and its leaders—to such an extent that they are popular whipegoats for all the ills of modern life.

Ninety-nine times out of a hundred, motives of Business are worthy. Where its policies are understood, good will and cooperation are always obtainable. The difficulty is in the interpretation.

Many of the country's largest organizations have surmounted this difficulty. They have turned publicity—which is so often used against them destructively—into a constructive implement, and have found it an excellent stroke of business to take the public into their confidence.

Corporate management, more than ever, needs understanding of its policies, its principles, and its program. It needs this understanding on the part of employees . . . of stockholders . . . of customers and potential customers . . . of government . . . and of government's "other self," the *public*.

Management needs, too, to know what is in the minds of these same groups, so far as they affect corporate welfare.

★ ★ ★ ★ ★

The need for competent Public Relations service has never been so clear. Ketchum, Inc. offers a successful record in varied activities in this field, backed by the favorable opinion of a long list of well known organizations and men who know Ketchum's work first hand.

We would welcome an opportunity to discuss with you in confidence the steps we believe could be taken by your company to meet any situation which confronts you.

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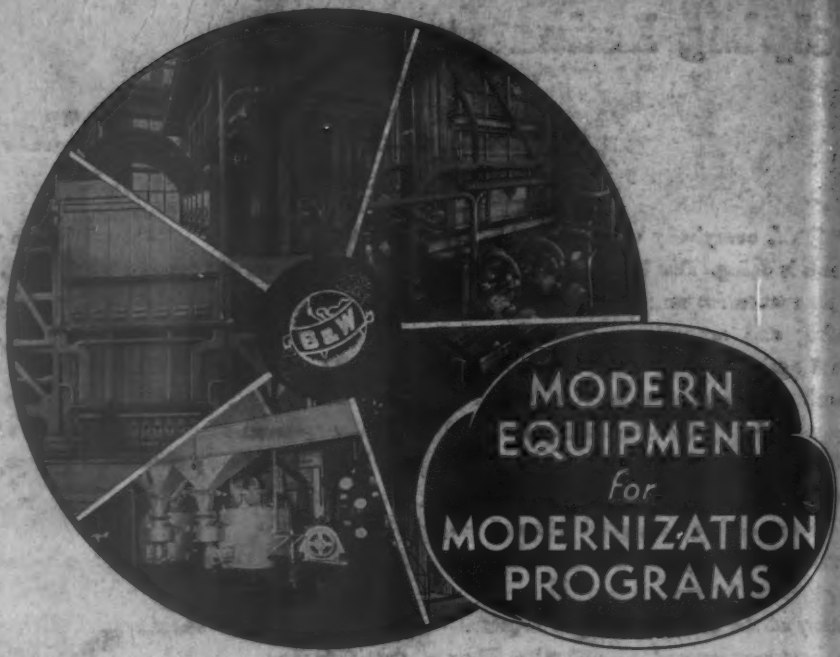

Never before has The Babcock & Wilcox Company had such a wide range of equipment suitable for modernizing older power stations that are now obsolescent because of the great strides made during the past ten years in the economical generation of power.

Since 1929, the Company has developed, or announced as available: new types of boilers, a new water-cooled furnace construction, a pulverizer of 50-tons capacity, new types of fuel-burning equipment, and many improvements made in its other products.

The Babcock & Wilcox Company is fully prepared to help producers of power to carry out modernization programs involving changes, such as the installation of modern slag-tap furnaces with water-cooled floors, high-pressure boilers super-imposed on existing low-pressure systems, or high-pressure high-temperature units.

Babcock & Wilcox Engineers will be glad to discuss with executives and engineers the economic application of these new and improved products.

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